EXTENSION OF THE MANUFACTURING CLAUSE OF THE COPYRIGHT LAW

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 6198

A BILL TO EXTEND THE MANUFACTURING CLAUSE OF THE COPYRIGHT LAW

MAY 27, 1982

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EXTENSION OF THE MANUFACTURING CLAUSE OF THE COPYRIGHT LAW

THURSDAY, MAY 27, 1982

House of Representatives,
Committee on Ways and Means,
Subcommittee on Trade,
Washington, D.C.

The subcommittee met at 10:20 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press Release of May 20, 1982]

Hon. Sam. M. Gibbons, (D.-Fla.), Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Announces Hearings on H.R. 6198, a Bill to Extend the Manufacturing Clause of the Copyright Law, and Possible Continuation of Hearings on Trade in Services and High Technology Products, and on Other Pending Legislation

The Honorable Sam M. Gibbons, (D.-Fla.), chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the subcommittee will hold a public hearing on H.R. 6198, a bill to extend the manufacturing clause of the Copyright Law until July 1, 1986. This hearing will also be for the purpose of receiving further testimony, if necessary, on trade in services and trade in high technology products, and on other pending legislation, scheduled for May 24 and 26. The hearing will be held on Thursday, May 27, in room 1100 Longworth House Office Building, beginning at 9:30 a.m.

The manufacturing clause requires that certain publications be printed in the United States or Canada in order to receive copyright protection. It has existed in one form or another since 1891. Under current law, the manufacturing clause expires on July 1, 1982, and subsequent to that date copyright protection would no longer be denied to publications printed outside the United States and Canada. H.R. 6198 was reported by the House Committee on the Judiciary on May 19, 1982, and was sequentially referred to the Committee on Ways and Means for consideration of matters within its jurisdiction. This legislation would delay expiration of the manufacturing clause until July 1, 1986.

The purpose of the hearing will be to elicit views from the Administration and from interested parties regarding the economic and trade policy implications of retaining the manufacturing clause.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Requests to be heard on H.R. 6198 must be received by telephone to Harriett Lawler [telephone (202) 225-3627] by close of business, Tuesday, May 25. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the full Committee Office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached);
2. A list of any clients or persons, or any organization for whom the witness appears; and
3. A topical outline or summary of the comments and recommendations in the full statement.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six (6) copies of their statement by the close of business Tuesday, June 1, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit 50 additional copies for this purpose if provided to the Committee during the course of the public hearing.

Chairman GIBBONS. This is a hearing of the Trade Subcommittee of the Ways and Means Committee.

This morning, we are going to look at H.R. 6198, which has been sequentially referred to us. This is a bill to extend the manufacturing clause through July 1, 1986.

There is a provision of the copyright law that restricts the importation of certain copyrighted terms. It expires on July 1 of this year. H.R. 6198 has been referred to this committee for our consideration of that provision.

Since the committee has a limited period to consider this matter, it is my intention to mark up this bill immediately following the hearing, assuming a quorum is present.

Our first witness this morning is from the Office of the U.S. Trade Representative, Mr. C. Michael Hathaway.

STATEMENT OF C. MICHAEL HATHAWAY, DEPUTY GENERAL COUNSEL, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. HATHAWAY. I have a statement which I will submit for the record, but I will try to summarize.

Chairman GIBBONS. Your statement and all other witnesses' statements this morning will be admitted.

Mr. HATHAWAY. The manufacturing clause has been in U.S. law since 1891, and has been progressively narrowed in scope until its application now is to copyrighted nondramatic literary works in English by U.S. nationals domiciled in the United States.

When the clause was revised in 1976, as part of the revision of the copyright law, the application of the clause was extended until July of this year; an exception was added for materials printed in Canada.

In anticipation of legislation that is pending now, the Copyright Office and other executive branch agencies have examined the potential effect of the termination of the clause on employment in the United States, and the conclusions that have been reached in those studies have differed significantly.

It remains somewhat unclear today what the impact would be of the elimination of the manufacturing clause.

Your staff and the committee have and will have in other testimony today more of an analysis by the Copyright Office and by others on the effect of the termination of the clause.

The Department of Labor will also testify on its study of the effects of termination. I have also with me today representatives from other agencies that have also studied the effect of termination should the committee want to examine further their views or their analyses.

While the copyright law and the manufacturing clause raise rather significant domestic concerns, these are by no means the only concerns raised by this legislation.

When we negotiated in the MTN, the manufacturing clause was scheduled to expire this year, and on the basis of that knowledge, negotiations on the elimination of the clause as a nontariff barrier to trade were not conducted.

Since the conclusion of the Tokyo Round, though, several countries, including the European Communities, and within the Community specifically the United Kingdom, have raised concerns about the elimination of the clause.

They have made strong representations to us that the manufacturing clause should be allowed to expire. They have alleged that the manufacturing clause is in violation of the U.S. international obligations under the GATT, and that the continuation of the clause would require the United States to submit to the dispute settlement procedures of the GATT. Ultimately, the United States might face the possibility of paying compensation for continuation of the clause or of suffering retaliation.

Without making a judgment on the merits of their claims, it is very clear that retaining the clause may be at some cost to the international interests of the United States.

A thorough review of the effect of the manufacturing clause could convince us that it is genuinely in our national interest to eliminate the clause but that would not be the case if we were likely to see widespread unemployment.

As a result of the differing views over the effect of termination of the clause, the administration has made a proposal compromise to the extension of the clause, and we have submitted—attached in my statement—a proposal that would delegate the authority to the administration to terminate the clause upon completion of several steps.

Under this proposal for early termination authority, we would require the advice of the private sector. The International Trade Commission would consult with the appropriate committees of Congress. Operating through the normal trade policy mechanism, we would make a determination of whether the adverse economic impact of termination of the clause would justify its extension or whether it would be in our national interest to have the President set a specific time for the termination of the clause.

We believe that those provisions in the compromise would protect the various interests that have been expressed, both in the printing and in the labor sector.

We also believe it would be in the best interest of the United States to have the possibility of international consultations on eliminating the clause with normal mutual advantage that flow from our international trade negotiations in general.

With the submission of our statement, Mr. Chairman, I would be pleased to answer any questions you might have.

[The prepared statement follows:]

STATEMENT OF C. MICHAEL HATHAWAY, DEPUTY GENERAL COUNSEL, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. Chairman, I am Michael Hathaway, Deputy General Counsel, Office of the United States Trade Representative. I want to express the appreciation of the Administration to the Subcommittee for providing this opportunity to present the Administration views on H.R. 6198, a bill that would extend the application of section 601 of the Copyright Law (the Manufacturing Clause) until July of 1986.

The manufacturing clause was added to the U.S. copyright laws in 1891, to protect the then developing printing industry in the U.S. The original prohibition on importation of copies of copyrighted works has been narrowed in scope over the years to limit its application to copyrighted, non-dramatic literary works, in English, by U.S. nationals domiciled in the U.S. When the clause was revised in 1976, as part of the total revision of the Copyright Law, the application of the manufacturing clause was extended until July of this year and an exception was added for materials printed in Canada.

The Copyright Office, the Departments of Labor and Commerce and the Council of Economic Advisors have all examined the potential effect of termination of the clause on employment in the U.S. The conclusions reached by each agency have differed significantly from those of the others. It remains unclear, therefore, what the impact of termination would be. We have submitted to your staff copies of documents prepared by the Copyright Office, Council of Economic Advisers and the Department of Labor regarding the issue and have with us representatives of those agencies to answer any questions you may have.

While the domestic concerns raised by the manufacturing clause are significant, they are by no means the only concerns. The manufacturing clause has international implications as well. During the Tokyo Round of the Multilateral Trade Negotiations, a number of countries expressed concern about the manufacturing clause as a non-tariff barrier to trade and asked that it be reduced or eliminated as part of the general negotiations dealing with the elimination of non-tariff trade barriers. The U.S. did not pursue negotiations at that time since the application of the clause was to expire by statute in July of this year. Since the conclusion of the Tokyo Round, several countries have expressed interest in the elimination of the clause.

Several governments, as well as the European Economic Community, have made strong representations to us to urge that the manufacturing clause be allowed to expire. These representations include allegations that the clause is in violation of U.S. obligations under the GATT and that its continuation would require the United States to pay compensation in the form of some other trade concessions, or accept retaliatory measures by those of our trading partners whose interests are affected. Without judging the merits of those allegations, it is clear that retaining the clause may be at some cost. However, a thorough review may convince us that it is genuinely in the national interest to eliminate the clause.

That would not be the case, for example, if it were demonstrated that letting the clause expire was likely to cause widespread unemployment. We, therefore, propose a compromise approach. The Administration proposed that H.R. 6198 be amended to permit the President to terminate the clause prior to the 1986 expiration date if he determines it to be in the national interest to do so after taking into account the advice of the United States Trade Representative.

In preparing that advice, the Trade Representative would be required to consider the results of a study of the United States International Trade Commission of the probable economic effects of termination on the domestic printing and publishing industries, and industries related to them, the information and advice provided by the interagency Trade Policy Committee, representatives of elements of the private sector, and the results of consultations with the Committee on Ways and Means of the House and the Committee on Finance of the Senate.

Further, the Trade Representative, operating through the normal interagency trade policy review procedures would consult with other countries in an effort to obtain mutually advantageous reductions in barriers to trade facing U.S. industries abroad. Where such mutual actions are possible and if the adverse economic impact were not, on balance, excessive, then termination would clearly be "in the national interest." Termination, however, also might be in the national interest even if specific, identifiable concessions are Proposed Section 604 of the Copyright Law, to permit early termination of section 601 under certain circumstances.

604. Termination of Section 601 by the President.

(a) The provisions of Section 601 of this title may be terminated by the President by Executive Order, when he determines, after taking into account the advice of the United States Trade Representative under subsection (b), that such termination is in the national interest.

(b) In providing advice to the President concerning termination of the provisions of Section 601, as provided in subsection (a), the Trade Representative shall take into account, in addition to other considerations he may consider relevant—

(1) information and advice from the United States International Trade Commission obtained under subsection (c) below, on the probable effect of termination of Section 601 on the economy of the United States;

(2) information and advice submitted by the Trade Policy Committee regarding the effect of termination of Section 601 on the economic interests of the United States;

(c) Upon request of the United States Trade Representative, the Commission shall advise the President of its judgment of the probable economic effect of termination of Section 601 upon the domestic publishing and printing industries and upon those domestic industries which provide services to, or distribute the output of, the domestic publishing and printing industries. The advice of the Commission shall be given on the basis of an investigation during the course of which the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence and to be heard.

Chairman GIBBONS. Do other countries maintain restrictive barriers similar to the manufacturing clause?

Mr. HATHAWAY. As a general rule, they do not, Mr. Chairman. The United States has maintained this provision under the grandfather provision of the GATT, when we signed the GATT. It is being reviewed annually, and is consistent with the GATT for an effort to be made to get the United States to come into full compliance with the original obligations of the GATT.

Chairman GIBBONS. Do any of the other industrialized nations maintain this restrictive barrier? Do any of the European Community countries maintain these kinds of barriers?

Mr. HATHAWAY. No; they do not.

Chairman GIBBONS. How about Japan?

Mr. HATHAWAY. As far as I know, the United States is the only country with significant trade in this area that has this sort of provision. Some other countries do have other barriers, tariffs, and things in this sector, but a large number of those have been eliminated under other international agreements.

Chairman GIBBONS. This is just an embargo?

Mr. HATHAWAY. Correct.

Chairman GIBBONS. If we allowed the clause to expire, what factors unrelated to its existence would guarantee the health of our printing industry?

Mr. HATHAWAY. If the concerns—some concerns have been expressed—are that there would be widespread increase in imports, there are other trade remedies for both unfair imports and also for increased imports that are not unfair but that cause injury. Those normal trade remedies would be available to the printing industry.

Chairman GIBBONS. Does the United States have reasonable access to foreign markets?

Mr. HATHAWAY. Yes; it does, and I understand our export performance in this particular sector is quite commendable.

Chairman GIBBONS. I have been told that representatives of the printing industry argue that because of the Florence agreement, which eliminates duties on scientific, cultural, and technical publications, the manufacturing clause is their only form of effective protection.

Is this a valid argument?

Mr. HATHAWAY. There is a question of how effective the manufacturing clause is now. It has been narrowed in scope substantially, so that there is some significant debate about what the impact would be if it were eliminated entirely. Most of the other areas of protection have been eliminated, because of duty reductions, so that the trade in this sector is substantially open.

Chairman GIBBONS. If we were to allow the USTR to negotiate away the manufacturing clause, what could we get in exchange?

Mr. HATHAWAY. I don't think we could say at this time, because most other areas we had go over sectoral negotiations of one sort or another because of the MTN and because of the schedule limitation, most of which were covered under the Florence agreement. There has been very little exploration of what might be obtained.

There is a significant interest in it in other countries. Whether or not something could be obtained in the same sector that would be of more value, it is really hard to say. We have not done even the preliminary consultations that would enable us to make a good estimate of what we would get in return.

Chairman GIBBONS. Who has complained in GATT about this?

Mr. HATHAWAY. The European Communities, I am told, will be filing with our delegation in Geneva a request for exception under article 22 this week, and they are strongly supported within the community, at least by the United Kingdom.

Chairman GIBBONS. What is the justification for the Canadian exception?

Mr. HATHAWAY. The Canadian exception was, I believe, promulgated because of the very close relationship and the trade across the border with Canada. We had a large amount of trade that could go back and forth, and Canada had duties at the time. If we gave an exception to Canada under the manufacturing clause, Canada would provide a duty reduction for the United States. The reason for the exception for Canada was to enable the U.S. exports of printed materials to obtain duty reduction when shipped into Canada.

Chairman GIBBONS. Well, doesn't this kind of exception for the Canadians raise problems with our obligations regarding nondiscriminatory treatment of trading partners?

Mr. HATHAWAY. It may well. I am not certain yet of the basis for the complaint.

Chairman GIBBONS. Are there differences within the administration on the effect of all this?

Mr. HATHAWAY. Excuse me, Mr. Chairman.

Chairman GIBBONS. Are there differences in the administration about the potential effects of this, of your proposal and this proposal?

Mr. HATHAWAY. Yes, there are. The Labor Department had initially done an estimate of potential job opportunity losses, subject to a number of qualifications which I am sure they will tell you about, their estimates indicated a very significant impact. Other executive branch agencies found a substantially smaller impact.

Chairman GIBBONS. Mr. Frenzel?

Mr. FRENZEL. Thank you very much, Mr. Hathaway, for your testimony.

When historically did that exemption begin? Did it begin when the law was passed, or was Canada added later on?

Mr. HATHAWAY. It was added at the time we were negotiating with Canada on their participation in the Florence agreement, in the midseventies; so at the time the copyright law was amended—that was in 1976—was the time the exception was made for Canada.

Mr. FRENZEL. I notice that the administration has been impatient with Canada for its attitude on border broadcasting, and has submitted so-called mirror legislation. Some representatives of the administration have talked about other kinds of retaliatory legislation for that problem, and for other problems.

You are not suggesting that in this bill. You do not think this is a good way to apply some pressure?

Mr. HATHAWAY. We are not proposing that at this time. Some of the other provisions that have been discussed on applying more pressure——

Mr. SCHULZE. Will the gentleman yield?

Mr. HATHAWAY. This is not being considered.

Mr. SCHULZE. I wonder if you would have any objection to that being done. I am having prepared an amendment which will do just that.

Mr. HATHAWAY. In exchange for giving this exception to Canada, we expected Canada to join the Florence agreement. One of the benefits of that would have been the elimination of duties for the U.S. exports of printed material to Canada.

I believe I am correct that Canada has implemented the reductions of duties promised to the United States in exchange for this; so there would be a possible adverse effect in the form of a duty increase on printed materials exported to Canada if Canada were not continued as an exception. We have not taken a position on the elimination of the exception for Canada since the bill has not proposed that.

Mr. FRENZEL. Explain to me. Everybody else signed the Florence agreement, too. Why did they get exceptions?

Mr. HATHAWAY. This was a separate negotiation with Canada. I am not familiar with the background of it. I would be happy to provide more information.

Mr. FRENZEL. OK.

The chairman asked you whether the manufacturing clause was inconsistent with GATT on the basis that it does not provide national treatment or even the most-favored-nation treatment.

Canada would seem to be a preferential partner in this.

Isn't this manufacturing clause clearly violative of the GATT, and aren't we likely to be taken in and have grievances filed?

Mr. HATHAWAY. Absent the protocol of provision application, and there is some question whether it would apply after it has been extended, the manufacturing clause would clearly be a violation of the GATT. In its original form, it was basically grandfathered under the GATT protocol.

Mr. **Frenzel**. I understand.

Mr. **Hathaway**. The legal question which has arisen, and which will arise, is whether the subsequent modifications of the manufacturing clause have the effect of eliminating the grandfather protection. As I said, I prefer not to judge that at this time, since we are apt to be challenged. If we are faced with it, we will make the best effort we can to defend it.

Mr. **Frenzel**. Thank you.

In reviewing your testimony, I note you suggest some changes in the law, and I have prepared an amendment to put those changes in the law that would provide for termination of the clause upon conclusion of a multilateral agreement providing reciprocal benefits.

I think that my amendment, however, provides for a sectoral negotiating objective which I believe your agency does not support.

My amendment only gives those objectives priority. It does not say that they have to be observed, but it is my intention to move the amendment that I think is very close to what you are suggesting in your testimony, and I invite either your comment or your review of that amendment, as you wish.

Mr. **Hathaway**. I just looked over your amendment before, and while I do not have an administration position, so long as the sectoral reciprocity objectives are not requirements, that is making a liberalization on one sector that would affect one other particular segment of the economy—that is probably not a problem.

The problem expressed by Ambassador Brock was being required to come up with some particular form of concession. That is not the way trade negotiations work.

In some instances, concessions even in the same sector may be of no benefit to us.

I would try to get as quickly as we could a favorable administration response to your proposal.

Mr. **Frenzel**. A favorable one would be nice. Is it true that the Copyright Office opposes this law, this extension?

Mr. **Hathaway**. I believe that is correct, and I believe they will be the third witness today.

Mr. **Frenzel**. We will get their testimony later. I understand the Department of Labor issued a report showing a huge number of jobs that were going to vanish. That was last year about this time.

I wonder if you would comment on your agency's assessment of the number of jobs that might be protected by this law.

Mr. **Hathaway**. First, I point out that the Labor representatives will be the next witness to go over their report in detail. During the interagency review of that report, both representatives of our agency and other agencies raised some fairly significant questions about some of the assumptions that served as a basis for the Labor report. If those assumptions were incorrect, it would lead to a smaller, and in some instances a significantly smaller, impact than the Labor estimate.

The representatives from the Department of Labor can go into their explanation more. We have representatives of other agencies here today who have analyzed the Labor Department report, that can go into it. Also I know that the Copyright Office has analyzed it extensively. You have their representatives as witnesses to testify to their analysis.

Mr. FRENZEL. I appreciate that.

Finally, are you aware of any other member of GATT that has a restriction like this?

Mr. HATHAWAY. No, I am not.

Mr. FRENZEL. We stand alone in our need to protect this particular industry?

Mr. HATHAWAY. As far as a provision of this sort, I am not aware of any other country that has this type of provision. Most other countries eliminated most similar forms of protection a long time ago. Others that did not have such provisions would have had GATT problems instituting one at a later time.

Mr. FRENZEL. Are you aware of some inherent weakness in this industry that it needs protection that no other country in the world seems to want to afford?

Mr. HATHAWAY. I am not.

Mr. FRENZEL. Neither am I.

Thank you.

Chairman GIBBONS. Mr. Bailey?

Mr. BAILEY. Mr. Hathaway, what are the figures that Labor came up with on job loss?

Mr. HATHAWAY. Eighty to—

Mr. BAILEY. Some 370,000—does that figure mean anything to anybody?

What is the lowest figure you had?

Mr. HATHAWAY. The lowest figure I heard during the discussions was from 5,000 to 15,000.

Mr. BAILEY. Are you serious with that figure, 5,000 to 15,000? You personally believe that?

Mr. HATHAWAY. I personally haven't got the slightest idea what the impact of termination would be.

Mr. BAILEY. Excuse me. You personally haven't the slightest idea. Have you looked into it very much?

Mr. HATHAWAY. I have looked into the various estimates, and it appears to me there still remains an enormous doubt over what the impact would be.

Mr. BAILEY. Does the administration care?

Mr. HATHAWAY. The administration does, and that is the reason we have proposed a study, an ITC study to be done in advance of any negotiation.

Mr. BAILEY. In all fairness to you, we don't know. Estimates are as low as 5,000 and as high as 377,000?

Mr. HATHAWAY. In various studies the executive branch agencies had conducted we have that wide a range of estimates. There has been very strong disagreement.

Mr. BAILEY. I would think that to believe we are going to lose 5,000 to 15,000 jobs is patent absurdity.

The Europeans are so interested in this change—why? What the hell should they care if it is 5,000 or 15,000 jobs? They are not even going to raise a squeak?

Why would they even say anything if that is all it means?

Mr. Hathaway. The numbers that I have seen from estimates of the economic benefit to the European Communities are not large enough to support the amount of concern expressed by the European Communities.

Mr. Bailey. One of the major points in the discussion we have had here this morning is the issue of complaints by our European friends. I have been looking at finance arrangements.

The MTA in New York bought 800 cars, and up in Canada, incidentally, they are using leasing arrangements to their advantage, but they went for the finance package.

I have looked at how the French finance their exports and imports. They are going to endanger a lucrative area like that by complaining about 10,000, 15,000 job loss on copyright issues. Why should they care?

Mr. Hathaway. Actually, I believe, part of their motivation is that the United States has brought a number of complaints in the GATT against the community recently.

Mr. Bailey. Retaliation for steel maybe?

Mr. Hathaway. Not just steel. A lot of cases under the dispute settlement provisions of GATT. This is one opportunity for them to put the shoe on the other foot.

Mr. Bailey. Hypocritical of us.

Mr. Hathaway. I think that is part of the EC motivation.

Mr. Bailey. Do you think that is justified?

Mr. Hathaway. Well, there are two elements that might be argued. One, the protocol provision application has been in place since 1948, but that we are under an obligation to bring our——

Mr. Bailey. I know; the idea was it was going to expire and we were going to let it go; right?

Mr. Hathaway. And that as well.

Mr. Bailey. That was before downstream dumping came along, and before we had a huge flow of steel into the country. We can go back and forth, and both sides are going to be subject to criticism. We are not lily white, in the typical tradition of a great Republican who used the paraphrase "self-flagellation" when describing Americans' views about our policy—that was Mr. Kissinger, a great Republican.

It is hard for me to believe that viewing the success with which the Europeans negotiate with these greatly effective Democrat and Republican and American administrations in the trade area, that they are going to raise hell about this clause, it just amazes me, over 5,000 to 15,000 jobs, and you are going to tell me it is a matter of principle derived from American hypocrisy.

Has anyone done any work at all on whether or not there would be any national security implications at all to this issue?

Let me tell you why I raise that question. The United States of America provides a simple, a virtual seedbed for technological research and idea materials that are used all around the world.

For example, the greatest subscriber to American periodicals is the Soviet Union, and they do a great job of evaluating our materials.

Have you ever done any research on the leadtime involved in finding publishers on everything from treatises to research materials, et cetera. Has anyone at all looked into the aspect of printing and publishing and those kinds of questions? Have they been raised at all?

Mr. HATHAWAY. I am not aware of any national security element.

Mr. BAILEY. Why aren't you aware of the national security? Why haven't you asked a question like that?

I served on the Armed Services Committee, and the Soviets did some inertial guidance changes using very high quality American ball bearing processes in their gyroscopes, and they made some very significant breakthroughs.

I can't give you the figures on accuracy of their missiles.

We see a huge technology flow out of this country, and I am not just talking about job losses. I think we are absolutely stupid in our country in some of the things we do. If that is self-flagellation, I am going to have to join the crowd.

Have you looked at the implications of American authors seeking publishers abroad for a multitude of things? Are we going to end up just printing newspapers in this country, with the newspaper brought in from overseas, also?

Mr. HATHAWAY. If I am correct, and later witnesses can add more on the question, I do not believe that most of the printing of technical publications is covered under this clause now.

Mr. BAILEY. I don't know.

I understood dramatic materials, et cetera, do come in, and most of our scientific and technical things, I guess, do actually come under the clause, or they can be printed abroad. There is no restriction?

Mr. HATHAWAY. There is a restriction, and although I am not an expert on it, I think there is some calculation that goes on requiring the counting of the number of written words on a page in comparison to pictorial material.

Mr. BAILEY. Why haven't you asked these questions? Did it ever occur to you the flow of information and the issue that is involved in something like this?

Mr. HATHAWAY. Most of the material that is covered by the manufacturing clause is not of a scientific or technical nature, because that is a different type of printing.

Frankly, the coverage of the clause, I believe, is quite narrow, but there are other witnesses here today who are experts on coverage. I am here to talk about the trade negotiating aspects of this issue.

Mr. BAILEY. I will ask you this, and I will finish up. Just how much objection has been raised by our European friends or any other countries that might be involved? You still have not answered my question. I have had the British come and talk to me about different things, and I have talked with the Japanese about different things, and you develop a little feel for what is in their minds. How much real objection are they raising, or is it just you people who want the Presidential authority to negotiate it away?

Surely you don't intend to negotiate it away, do you? That is not the intention of the administration, is it?

We can go back to the Trade Act and talk about lists of items there.

Mr. Differdefer, or Differbaker—I forget his name—but he said they just wanted the Presidential authority; it is good to have it at your fingertips.

Mr. **Hathaway**. There has been a debate over the impact of termination, whether it would be 370,000 or no job losses. If the impact were quite small, then we could——

Mr. **Bailey**. Why are the Europeans raising so much fuss over 5,000 to 10,000 to 15,000 jobs if that is the case?

If that is not the case, why are they raising so much fuss?

Mr. **Hathaway**. To the best of my knowledge and belief, they are raising a fuss because they feel, they were told during the MTN, that the clause was going to expire in 1982. In fact, they were told, and it was scheduled to expire, and they chose not to negotiate regarding the issue.

Mr. **Bailey**. Your loyalty to continuing what Jimmy Carter began is admirable, and public note should be made of that.

Mr. **Hathaway**. Those statements are not attributable to the Carter administration.

Mr. **Bailey**. That still does not answer my question.

My question is, why do they take so much interest in it?

Is it just principle?

Mr. **Hathaway**. I don't believe the level of interest is due solely to the economic benefit that they would derive. My best information is that that is not—that they will not derive an enormous benefit. It is a matter of principle for the E.C. though that if the United States is insisting on other countries complying with international obligations, the United States should do so as well.

Mr. **Bailey**. Well, how much hell is this Government raising over there, about issues concerning subsidization? We are talking about principles of free enterprise; how much hell are we raising over issues of subsidization, everything from finance packages to marketing, et cetera?

Mr. **Hathaway**. I think quite a lot.

Mr. **Bailey**. It is?

Mr. **Hathaway**. We have a number of section 301 dispute cases going on now.

Mr. **Bailey**. I should not berate you, and I apologize.

The administration, the fantastic support they have given us in countervailing and dumping cases, shows their commitment to free enterprise, and I am glad to hear the Europeans are beginning to join us with their commitment to free enterprise and comparative advantage by arguing so forthrightly and strongly over these copyright manufacturing clauses.

Thank you very much.

Chairman **Gibbons**. Mr. Schulze?

Mr. **Schulze**. I have heard in hearings before the House Subcommittee on Judiciary, it was revealed that the USTR had taken the position it wanted authority to terminate the clause not so much as a trading term, but rather because it did not like the clause and wanted to get rid of it at the first opportunity.

Is that true?

Mr. **Hathaway**. What was referred to at that hearing was a draft of an interagency working document that represented, quite frankly, the views of several different agencies. I can tell you quite honestly that the views expressed within the administration go from one end of the spectrum of maintaining the clause indefinitely to immediate elimination at the other.

It was not the view of Ambassador Brock or the Trade Representative's Office, nor was it the administration's position, that the authority—delegating authority to the President to terminate the clause after consulting with other governments was for the purpose of the elimination of the clause.

The purpose of the administration proposal was to enable the administration to conduct a study and have an intelligent estimate of what the impact of termination would be. Once that was known, it would be possible to make some determination of what should be done about the clause, whether it should be kept or whether it would be more in the national interest to allow the clause to terminate.

Mr. SCHULZE. I have a copy of the memo on the administration's first position on H.R. 3940. They have since changed positions.

Mr. HATHAWAY. The administration position on the earlier bill was—the rationale for that position is a composite of various agencies' views. The paper reflected the view of some agencies that the clause should be terminated because some agencies have a view that it would have no impact domestically, and that it would have a favorable impact internationally.

There are views of other agencies that differ, and we came to a compromise. That compromise is the same position that the administration has today. The administration position was not a proposal designed so that the clause could be eliminated.

I would not be honest with you if I did not say that there are, I am sure, individuals and probably agencies in the executive branch that would prefer to have the clause terminate. There are also those that would prefer to have it extended indefinitely.

Mr. SCHULZE. In your opinion, pressure will continue for the elimination?

Mr. HATHAWAY. Pressure will continue internally, and you will have witnesses to that effect here today. It will also continue internationally.

Mr. SCHULZE. Thank you very much.

Thank you, Mr. Chairman.

Chairman GIBBONS. Further questions?

Thank you, sir.

Now, representing the U.S. Department of Labor, Mr. Donald J. Rousslang.

I wonder if we could not get the Copyright Office up here at the same time.

Go right ahead.

STATEMENT OF DONALD J. ROUSSLANG, ACTING DIRECTOR, OFFICE OF FOREIGN ECONOMIC RESEARCH, BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY MICHAEL F. MOORE, OFFICE OF FOREIGN ECONOMIC RESEARCH

Mr. ROUSSLANG. Mr. Chairman and members of the subcommittee, thank you for your invitation to appear here today to present testimony on H.R. 6198, a bill to extend until July 1, 1986, the manufacturing clause of the U.S. copyright law (section 601 of title 17 of the United States Code).

As you know, the manufacturing clause prohibits, except in very limited circumstances, the importation of copies of nondramatic literary material that is in the English language, and that is copyrighted by a U.S. national domiciled in the United States. With the revision of the copyright statute in 1976, the manufacturing clause was extended until July of this year and an exception was added for materials printed in Canada. The purpose of the clause, which was enacted in 1891, was to protect the domestic printing and publishing industries from foreign competition.

In response to congressional requests, the Department of Labor's Office of Foreign Economic Research undertook a study of the employment impact of the expiration of the manufacturing clause. With me today is Michael Moore, the principal author of the study. Prior to discussing the results of this study, it should be stated that although a conscientious and thorough effort was made to measure employment impact, our estimates are necessarily imprecise due to data problems we encountered.

Although the study concludes that the expiration of the manufacturing clause may result in the loss of from about 80,000 to 170,000 job opportunities in the U.S. printing and publishing industry, these estimates of lost job opportunities are subject to a number of qualifications which are detailed in the study.

I would emphasize that a loss of employment opportunities does not translate, one for one. into workers laid off, because normal attrition of workers and industry growth may absorb some of the loss. For example, according to data from the Bureau of Labor Statistics (BLS) employment in the book printing industry has fallen by about 7.6 percent in the last 2 years. In terms of actual employment, such an industry would be harder hit by the expiration of the manufacturing clause than would the periodical industry, for which BLS data show an employment growth of 13 percent over the same time period.

The wide range of the estimates among the various studies, and within our own study, indicates the importance of the data problems faced by those who have attempted to measure the effects of the expiration of the manufacturing clause. Some of the differences among studies are due to differences in sectors covered. The Department of Labor study is an attempt to gage the employment effects of expiration for all of the varied sectors of the printing and publishing industry that would be affected. Other studies of which we are aware focus solely on the book sector. However, a large part of the variance among estimates is due to problems encountered in determining which workers were covered by the manufacturing clause, and how many of these workers would be adversely affected if the clause were allowed to expire.

I appreciate the opportunity to testify before this subcommittee. Mr. Moore and I will be pleased to answer any questions that you, Mr. Chairman, or other members of the subcommittee may have regarding the study.

[The prepared statement follows:]

STATEMENT OF MICHAEL F. MOORE, OFFICE OF FOREIGN ECONOMIC RESEARCH, U.S. DEPARTMENT OF LABOR

EXECUTIVE SUMMARY

The Manufacturing Clause of the U.S. Copyright Law provides protection from foreign competition for U.S. printers and publishers of certain types of printed materials by requiring that specified printing processes such as platemaking and binding be carried out in the United States. This Clause, in effect since 1891, will expire in July 1982. The printing and publishing industry is large, with 50,000 firms, employment of 1.3 million, and estimated 1980 receipts of $68.1 billion. Therefore, it is important to gauge the impact of the expiration of the Manufacturing Clause upon the industry's and the nation's work force.

This study finds that the elimination of the Manufacturing Clause would cause a decrease in demand for American printing and publishing and, after the industry has adjusted, a loss of 78,000 to 172,000 job opportunities in the printing and publishing industry. This long-run loss of employment opportunities in printing and publishing would be accompanied by a decrease in employment opportunities in firms (such as paper mills) which supply the printing and publishing industry. The total estimated loss of job opportunities in the U.S. economy is 170,000 to 367,000.

The estimates contained here should be used only after carefully noting the accompanying qualifications. The reader is directed to page two, where it is stated that a ". . . given loss of job opportunities does not translate, one for one, into layoffs. Industry growth, voluntary job transfers, retirements, etc. can all alter the actual impact upon the printing and publishing work force. The broad range of the estimates reflects the informed speculation necessary to arrive at estimates for some sectors where requisite data were not available."

We believe these estimates to be the most accurate feasible, given existing data limitations. In order to provide a check on our results, two separate methodologies were used to derive the estimates presented here. Possible sources of error in these estimates and their relative importance are noted in the text and the Appendix.

STATEMENT

The Manufacturing Clause of the United States Copyright Law provides a measure of protection from foreign competition for U.S. producers of certain types of printed materials. Generally, these printed materials include non-dramatic works in English, by U.S. authors. The protection afforded the domestic producers is the denial of U.S. copyright protection to foreign producers of such materials unless certain production processes, including typesetting of raised-surface type, platemaking, printing, and binding are carried out by U.S. producers.

The Manufacturing Clause, in effect in varying forms since 1891, is scheduled to expire on July 1, 1982. Although some of the protection it grants U.S. producers of printed matter has been eroded by technological changes in the printing industry, the retention of the Clause is still seen as necessary by many segments of the domestic printing and publishing industry, Standard Industrial Classification (SIC) 27. This paper attempts to assess the employment effects of allowing the Manufacturing Clause to expire. The first section examines eight sectors that make up the printing and publishing industry in order to estimate the sectorial and the aggregate industry labor impacts of permitting the Manufacturing Clause to lapse. Section two utilizes an elasticities approach to estimate the aggregate labor impact of the Manufacturing Clause lapse, in order to verify the accuracy of the aggregate estimate derived in section one. In both sections, input-output (I–O) analysis is used to estimate the indirect labor effects, i.e., the impacts on industries supplying SIC 27, of allowing the Manufacturing Clause to expire. Section three notes factors bearing on the reliability of the estimates obtained. An Appendix details the methodology employed in sections one and two.

1. Sectorial analysis.—The expiration of the Manufacturing Clause could cause a direct long-run loss of 78,000 to 172,000 employment opportunities in the printing and publishing industry, according to a sector-by-sector analysis of this industry. These figures represent from 6.2 percent to 13.9 percent of 1979 industry employment, presented in Table 1. This direct employment impact (caused by a loss of sales to retailers), when added to the indirect employment impact upon industries (e.g., paper mills and advertising) supplying SIC 27, results in an estimated long-run total loss of 170,000 to 367,000 job opportunities in the U.S. economy.

These estimates should be interpreted carefully, for it is important to bear in mind that a given loss of job opportunities does not translate, one for one, into layoffs. Industry growth, voluntary job transfers, retirements, etc. can all alter the actual impact upon the printing and publishing work force. The broad range of the estimates reflects the informed speculation necessary to arrive at estimates for some sectors where requisite data were not available.[1]

The printing and publishing industry comprises eight sectors in the 1967 Bureau of Economic Analysis I-O tables. Table 2 describes these sectors, and notes the across-sector direct, indirect, and total employment opportunity losses estimated to result from the end of Manufacturing Clause protection. Table 2 presents both low and high labor impact estimates, and the key to these lies in the column labeled "Percent Output Decrease."

For each sector, the lapse of the Manufacturing Clause was assumed to lower industry output over a given probable range.[2] For example, it was assumed that, all other things equal, in the long run the lack of Manufacturing Clause protection would depress domestic newspaper production by 0 to 2 percent. The 0 percent figure was considered the "Low Range Estimate," the 2 percent figure the "High Range Estimate," and the corresponding percentages were entered as "Percent Output Decrease" and used to compute the direct, indirect, and total job opportunity loss occurring as a result of this sector's output loss.

TABLE 1.—AVERAGE 1979 EMPLOYMENT IN THE PRINTING AND PUBLISHING INDUSTRY (SIC 27) [1]

[In thousands]

1972 SIC code and description	Production workers	Total employees
27—Printing and publishing	702.2	1,242.9
271—Newspapers	168.6	420.7
272—Periodicals	14.0	82.3
273—Books	52.9	103.0
2731—Book publishing	28.2	73.7
2732—Book printing	24.8	29.3
274—Miscellaneous publishing	29.6	48.5
275—Commercial printing	305.8	412.1
2751—Commercial printing, letterpress	128.0	173.2
2752—Commercial printing, lithographic	159.1	216.4
276—Manifold business forms	34.3	48.4
278—Blankbooks and bookbinding	53.6	64.6
279—Printing trade services	29.8	40.6

[1] Source: "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.

TABLE 2.—ESTIMATED EMPLOYMENT EFFECTS [1] OF "MANUFACTURING CLAUSE" ELIMINATION

Input-output sector and description	Percent output decrease	Loss of employment opportunities (thousands) [2]		
		Direct [3]	Indirect [4]	Total
A. Low range estimates:				
26.01.—Newspapers	0	0	0	0
26.02.—Periodicals	10	1.4	3.2	4.6
26.03.—Book printing and publishing	30	13.6	28.6	42.1
26.04.—Miscellaneous publishing	20	5.9	4.7	10.6
26.05.—Commercial printing	15	52.7	54.3	107.0
26.06.—Manifold business forms, blankbooks and binders	0	0	0	0
26.07.—Greeting card publishing	0	0	0	0
26.08.—Miscellaneous printing services	10	4.1	1.8	5.9
Total		77.6	92.7	170.3

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[1] For a more thorough discussion of the assumptions and qualifications see: Office of Foreign Economic Research, "The Impact of Changes in Manufacturing Trade. . . ," in National Commission for Manpower Policy Special Report No. 30, "Trade and Employment," November 1978, pp. 261-270.

[2] Range assumptions are explained in section three and the Appendix.

TABLE 2.—ESTIMATED EMPLOYMENT EFFECTS [1] OF "MANUFACTURING CLAUSE" ELIMINATION—Continued

Input-output sector and description	Percent output decrease	Loss of employment opportunities (thousands) [2]		
		Direct [3]	Indirect [4]	Total
B. High range estimates:				
26.01.—Newspapers	2	3.4	2.4	5.7
26.02.—Periodicals	15	2.1	4.9	7.0
26.03.—Books printing and publishing	45	20.3	42.9	63.2
26.04.—Miscellaneous publishing	40	11.8	9.4	21.2
26.05.—Commercial printing	35	122.9	126.8	249.6
26.06.—Manifold business forms, blankbooks and binders	5	5.0	4.7	9.7
26.07.—Greeting card publishing	5	0.7	0.6	1.3
26.08.—Miscellaneous printing services	15	6.1	2.8	8.9
Total		172.2	194.4	366.5

[1] Based on average 1979 industry production worker or total employment as reported in "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.

[2] Entries may not sum to totals due to rounding.

[3] Loss of employment opportunities in the input-output industrial sector.

[4] Loss of employment opportunities in industries supplying the input-output industrial sector.

Where comparison has been possible, the estimates of employment opportunities lost (Table 2) are roughly consistent with estimates made independently. For example, Table 2 indicates that from 13.6 to 20.3 thousand direct job opportunities would be lost in sector 26.03, Book Printing and Publishing. A 1978 study by Prescott, Ball and Turben notes that, "Based on current total employment of 47.7 thousand by the U.S. book publishing and printing industry, the loss of employment will exceed 21 thousand upon elimination of the Clause."[3] Similarly, Edward V. Donahue, Vice President of the Graphic Arts International Union, estimates that over the next 15 to 20 years jobs lost that relate to book manufacturing "would total almost 40,000. . . ."[4] Discounting for the two percent growth rate Donahue has projected as industry growth over the next 20 years, and subtracting job losses outside I-O sector 26.03, this translates into a current direct employment loss of 16.0 thousand, which is within the estimated direct loss range of 13.6 to 20.3 thousand for this sector. Finally, preliminary results of a Congressional research Service study indicate that from 4.9 to 9.3 thousand job opportunities might be lost in the book printing industry, and this range overlaps the 8.8 to 13.2 thousand estimated here for book printing alone, but not shown separately in Table 2.

From table 2 we see that commercial printing (26.05) would suffer the greatest direct loss of job opportunities among the eight sectors, 53 to 123 thousand. Book printing and publishing (26.03), and miscellaneous publishing (26.04) follow in that order, but far behind with respect to job opportunity loss. Table 3, however, presents a different picture, showing the low-estimate direct labor impacts on these three sectors to be approximately the same relative to total sector employment. Note that the miscellaneous printing services sector (26.08) is also hard hit in relative terms, with a loss of job opportunities estimated to be 10 to 15 percent of total sector employment.

To illustrate the relative importance and distribution of direct and indirect job opportunity losses, these data are presented in Tables 4 and 5 for I-O sector 26.03, book printing and publishing. Table 4 presents the low, and Table 5 the high range estimates for this sector. Using the low-estimate assumption of a 30 percent[5] decline in wholesale book sales (f.o.b., factory) as an example, we see that this translates into a direct loss of 13.6 thousand job opportunities. Indirect losses for the same 30 percent sales decline total 28.6 thousand.

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[3] Prescott, Ball and Turben, "Manufacturing Clause Study," Summary of Findings, February 1978, p. 24.

[4] Edward V. Donahue, "The Impact on American Jobs by Elimination of the 'Manufacturing Clasue' from the U.S. Copyright Law," Testimony before the Copyright Office, January 13, 1981.

[5] This estimate is from E. Wayne Nordberg, "Economic Impact of the Elimination of the Manufacturing Clause," Testimony submitted to the Office of the Register, U.S. Copyright Office, Library of Congress, January 13, 1981, p. 2.

TABLE 3.—EMPLOYMENT OPPORTUNITY LOSS AS A PERCENT OF 1979 TOTAL EMPLOYMENT, BY SECTOR [1]

Input-output sector and description	Sector employment opportunity loss as a percent of 1979 sector employment	
	Low estimate	High estimate
26.01—Newspapers	0	0.8
26.02—Periodicals	1.7	2.6
26.03—Book printing and publishing	13.2	19.7
26.04—Miscellaneous publishing	12.2	24.4
26.05—Commercial printing	12.8	29.8
26.06—Manifold business forms, blankbooks and binders	0	4.4
26.07—Greeting card publishing	0	3.0
26.08—Miscellaneous printing services	10.0	15.0
Total	6.2	13.9

[1] Derived from tables 1 and 2.

TABLE 4.—*Direct and indirect employment opportunity losses resulting from a 30-percent decrease in sales of the book printing and publishing industry* [1]

Input-output sector and description:	*Thousands* [2]
Direct losses: [3] 26.03—Book printing, publishing	13.6
Indirect losses: [4]	
24.02—Paper mills	1.6
26.01—Newspapers	0.4
26.02—Periodicals	1.3
26.03—Book printing, publishing	3.7
26.05—Commercial printing	3.1
26.08—Miscellaneous printing services	2.8
65.03—Freight transport, services	0.4
69.01—Wholesale trade	1.4
69.02—Retail trade	1.0
71.02—Real estate	0.8
72.01—Hotels, lodging	0.4
73.01—Miscellaneous business services	1.1
73.02—Advertising	1.2
73.03—Miscellaneous professional services	0.5
78.01—Post Office	1.6
Other indirect sectors	7.1
Total indirect	28.6
Total direct and indirect	42.1

[1] Based on average 1979 industry production worker or total employment as reported in "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.

[2] Entries may not sum to totals due to rounding.

[3] Direct loss of employment opportunities in input-output industrial sector 26.03.

[4] Loss of employment opportunities in industries supplying input-output industrial sector 26.03.

TABLE 5.—*Direct and indirect employment opportunity losses resulting from a 45 percent decrease in sales of the book printing and publishing industry* [1]

Input-output sector and description:	*Thousands* [2]
Direct losses: [3] 26.03—Book printing, publishing	20.3
Indirect losses: [4]	
24.02—Paper mills	2.3
26.01—Newspapers	0.6
26.02—Periodicals	2.0
26.03—Book printing, publishing	5.6
26.05—Commercial printing	4.7
26.08—Miscellaneous printing services	4.1

65.03—Freight transport, services	0.6
69.01—Wholesale trade	2.2
69.02—Retail trade	1.5
71.02—Real estate	1.2
72.01—Hotels, lodging	0.7
73.01—Miscellaneous business services	1.7
73.02—Advertising	1.9
73.03—Miscellaneous professional services	0.7
78.01—Post Office	2.4
Other indirect sectors	10.7
Total indirect	42.9
Total direct and indirect	63.2

[1] Based on average 1979 industry production worker or total employment as reported in "Employment and Earnings, March 1980," Bureau of Labor Statistics (Washington, 1980), p. 62.
[2] Entries may not sum to totals due to rounding.
[3] Direct loss of employment opportunities in input-output industrial sector 26.03.
[4] Loss of employment opportunities in industries supplying input-output industrial sector 26.03.

The 15 sectors where the indirect employment impact is greatest are listed separately. These 15 account for 75 percent of the total indirect losses. The sectors containing the remaining 25 percent of indirect job opportunity losses are combined as "Other Indirect Sectors." Note that the sector with the greatest number of indirect losses, 3.7 thousand in Table 4, is also sector 26.03, book printing and publishing.

2. Elasticities analysis.—The estimates arrived at in section one are based on key assumptions as to the range of likely domestic output effects of allowing the Manufacturing Clause to expire. To verify the validity of these assumptions a different methodology was employed to make an independent estimate of effects on employment opportunities in the printing and publishing industry.

Using two different import demand elasticity figures, plus findings from the Australian experience with imports of printed matter, along with 1978 employment and trade data for SIC 27, it was estimated that from 103 to 164 thousand direct employment opportunities would have been lost in the printing and publishing industry had Manufacturing Clause protection ended in 1978. These estimates lie well within the 78 to 172 thousand range estimated using the sectorial analysis of section one, even after making allowance for industry change between 1978 and 1979. In this elasticities analysis, incorporating the indirect employeemt effect on supplying sectors yields a total estimated loss of employment opportunities of from 226 to 349 thousand for the U.S. economy.

The aggregate elasticities analysis of this section draws upon the Australian experience with the post-1965 surge in imported printed materials which led to the Book Bounty Act. Under the Book Bounty Act, a subsidy of 33⅓ percent of the cost of production is paid Australian book manufacturers to enable them to complete successfully with imported books (the subsidy was initially 25 percent, but this was found to be inadequate). Subject to qualifications,[6] we can analyze the expiration of the U.S. Manufacturing Clause as the equivalent of a duty reduction which reduces the price of imported printed matter by 33⅓ percent. Previously estimated and a priori price import demand elasticities[7] for books and periodicals were then applied to this assumed price reduction to estimate the range of increase in imports, and the accompanying range of decrease in U.S. production and direct employment opportunities. As in section one, I–O analysis was then used to estimate indirect and total employment opportunity losses. The results obtained using this elasticities approach support the estimates of section one.

3. Reliability of estimates.—The above estimates of employment opportunity losses should be interpreted with care. The lack of certain basic data, such as the percent of printed material in each sector that is actually copyrighted, made necessary the approaches employed here, and prevented more accurate, points estimates. Noted below are additional factors to consider in using these estimates.

The estimates of indirect job opportunities lost in supplying industries reflect 1976 inter-industry relationships. To the extent that labor productivity in a supplying sector has increased (decreased) relative to a given printing and publishing sector since 1976, the employment effect in the supplying sector will be overstated (understated) here.

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[6] Explained in section three and the Appendix.

[7] Margaret Buckler and Clopper Almon, "Imports and Exports in an Input-Output Model, "American Statistical Association, 1972 Proceedings, pp. 175–184.

A direct employment opportunity loss, in a given I-O sector should not be interpreted as the total loss for that sector, even if no other sectors suffer direct losses, for there are usually indirect losses for that same sector among the total of indirect losses associated with suppliers to that sector. This was noted in examing sector 26.03, book printing and publishing, where 13 percent of indirect job opportunity losses connected with sector 26.03 were within sector 26.03 itself.

The I-O methodology employed assumes constant returns to scale and fixed proportions among the various factors of production used in the printing and publishing industry. These assumptions are common to other studies mentioned above, but to the extent that they do not hold, the resulting estimates will be biased.

The accuracy of the section one estimates rests on the assumptions as to the effects on sectorial output of Manufacturing Clause elimination. These assumed output impacts are the informed judgments of analysts in industry, labor, and government. To the extent that these judgments are incorrect, the resulting estimates will be biased.

The section two elasticities analysis assumes a rough equivalence between the protective effect of the Australian Book Bounty and the U.S. Manufacturing Clause. To the extent that the latter is more protective of the industry, the employment effects of Manufacturing Clause elimination are understated here.

The estimates above assume no major shift to overseas manufacturing by American publishing or printing firms. Publishers contend there is no problem, and are quoted as saying that "99 percent of U.S. book manufacturing would remain in the U.S."[8]

All other things equal, however, a given capital investment will yield a greater return where wages are lower. For example, Nordberg has found that for three representative book runs, the labor costs per book were 75 percent, 72 percent, and 79 percent lower in Singapore than in the United States, as of January 1981.[9] Thus, incentive would exist for such a shift to offshore production, and, "according to sources within (the Book Manufacturers Institute) BMI, many publishers who have vowed not to go offshore with their manufacturing jobs are already looking abroad to investigate the situation." [10] These sources feel that, "any migration would have a domino effect on U.S. manufacturers . . . ."[11] To the extent that such an offshore shift occurs the above estimates will understate long-run employment impacts.

Chairman **Gibbons**. Thank you, sir.

Now, from the U.S. Copyright Office, Mr. Anthony P. Harrison.

STATEMENT OF ANTHONY P. HARRISON, ASSISTANT REGISTER OF COPYRIGHTS, U.S. COPYRIGHT OFFICE, LIBRARY OF CONGRESS, ACCOMPANIED BY CHRISTOPHER MEYER, SENIOR COUNSEL, AND PATRICE LYONS, SENIOR COUNSEL

Mr. **Harrison**. Thank you, Mr. Chairman. Thank you for this opportunity to testify before your committee.

My name is Anthony P. Harrison, Assistant Register of Copyrights, and responsible for the preparation of this report to Congress on the possible effects of the scheduled elimination of the manufacturing clause.

On my far right is Patrice Lyons, and to my immediate right is Mr. Christopher Meyer, senior attorneys.

The Copyright Office undertook the study at the request of Senators John L. McClellan and Hugh Scott. During the 1976 debate to extend the expiration date from July 1, 1981, to July 1, 1982, Senator Scott said that the purpose of the extension was to "enable Congress to take a close look at the dangers faced by the printing industry."

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[8] Jerome P. Frank, "BMI's Fight to Save the 'Clause' Heats Up," Publishers Weekly, June 5, 1981, p. 54.

[9] Derived from Nordberg, op. cit., p. 8.

[10] Frank, op. cit., p. 8.

[11] Ibid.

In preparing its report, the Copyright Office acknowledged its lack of experience and experience in the discipline of economic analysis. Therefore, the office turned to the Bureau of Industrial Economics of the Commerce Department who provided us with the services of their printing and publishing industry specialist and to the Economic Division of the Congressional Research Service of the Library of Congress.

To develop the report findings, the Copyright Office held a series of background meetings with the representatives of printing and book manufacturing firms, their employees' unions, publishers and authors.

These groups all testified at a hearing held at the Copyright Office. The full record of that hearing consisted not only of the transcript but also of some 38 separate commitment letters and prepared statements.

This full record, which contains a wide range of opinions and recommendations, provided the Copyright Office with a prime source for our report of the most current position of the interested parties on the issues raised.

A second prime source of information for our findings was the independently prepared report of the Congressional Research Office. This report was based on the statistics provided in the Copyright Office hearing, an evidentiary survey conducted by the Congressional Research Service, and their independent research and analysis. The Copyright Office relied heavily on the Congressional Research Service report for the statistical evaluation of the issues.

In reaching its final determination, the Copyright Office examined the legislative history of the "clause," the economic concerns of the printing industry—including those with respect to paper, labor, and transportation costs—the state of printing technology, the legal treatment of the international book trade in several countries, and noncopyright alternatives for protection of the U.S. printing industries.

Congress has grappled with the chronic manufacturing clause problem since it came into the law in 1891. The principal effect of its enactment, requiring domestic manufacture of books and periodicals by U.S. authors as a condition to copyright protection, was to protect a then fledgling domestic printing industry from foreign competition.

The scope and impact of the manufacturing clause have been gradually narrowed by successive amendments. The clause is not now a condition of copyright protection. Under the copyright law now in effect, certain nondramatic literary materials in the English language must be manufactured either in the United States or in Canada in order for the work to enjoy the full remedies provided by the copyright law in an action for infringement of the rights of reproduction or distribution.

The manufacturing clause now applies only to works by American citizens or domiciliaries, and under special circumstances. even these works may be exempt from the manufacturing clause. Foreign authors are exempt from the clause.

In 1976, the House Committee on the Judiciary, after evaluating the argument in favor of and against retention of any manufacturing clause in the copyright law, concluded that "there is no justification on principle for a manufacturing requirement in the Copyright Statute . . .". H. Rep. No. 1476, 94th Cong., 2d Sess., (1976) at 166.

The Copyright Office, after examining the testimony and written submissions of the parties and the data contained in the Congressional Research Service report, recommended, and still recommends, that the manufacturing clause expire in accordance with the schedule provided by Congress in 1976, when it enacted the present Copyright Act.

This recommendation was based on many findings, of which the major ones are:

One, the reasons for abolishing the clause which are articulated by Congress in 1976 apply with equal force today. No evidence was adduced which demonstrates that conditions in the affected industries have changed since 1976 to such an extent so as to persuade Congress to withdraw its conclusion that the clause should expire.

Two, the United States stands alone among major book publishing countries in its control of the book trade through imposition of special manufacturing requirements in its copyright law. The expiration of the clause would demonstrate to the international copyright community that the United States, as signatory to several important international treaties, is willing to reduce artificial barriers to unencumbered free trade and the ready exchange of information.

Three, the expiration of the clause will end nearly a century of discrimination against one class of copyright owners—that is, owners of literary works—since no manufacturing requirement exists with respect to works of art, musical compositions, dramatic works, sound recordings, or motion pictures.

Four, economic forecasts suggest that the percentage of books which may be printed abroad after expiration will not exceed the 10 to 19-percent range, and even a reduction of this size does not necessarily translate to the same proportional effect on employment rates in the United States. The Congressional Research Service found that industry growth due to increased domestic consumption and exports could offset any threat of loss of job opportunities in the printing industry.

Five, although no one seems to know the exact ratio, whether in man-hours, or in money, between the manufacturing of works protected by the clause and those not so protected, it seems clear that much of the output of the U.S. printing consists of works not at all constrained by the manufacturing clause. Any forecast of substantial job loss in the printing industry must be tempered by the limited scope of the clause.

The Copyright Office found in the course of its deliberations that there are alternatives to the manufacturing clause for protection of the U.S. printing industry. First, by virtue of a specific reservation, the Florence Agreement—to which the United States is a signatory—does not limit the power of the International Trade Commission—ITC—to recommend the imposition of duties, quotas, orderly market agreements, et cetera, with respect to books and periodicals.

Proponents for retention of the manufacturing clause have argued that it is only possible for the printing industry to seek relief from the International Trade Commission once the industry has been damaged by imports and that it is an expensive, time-consuming process with potential relief only after extensive demonstrable harm.

However, as you know, the Ways and Means Committee has the authority to request an immediate investigation by the ITC into all factors affecting competition of foreign industries with those of the United States.

A second alternative to the manufacturing clause in the copyright law was proposed by representatives of the printers in the course of our hearings. This proposal was a tax-incentive credit for books manufactured in the United States along the lines of the general investment credit which now applies to the producers of motion pictures made in the United States.

It seems clear that one of the prime reasons for attempting to reverse Congress decision to eliminate the manufacturing clause is the current state of the domestic economy—specifically the high unemployment rates.

It is impossible to criticize the motives of anyone who wishes to protect U.S. jobs in these times, but we do criticize the means. The U.S. book printing and publishing industries, the ones most affected by the manufacturing clause, have demonstrated substantial growth over the years and one of the major contributing factors to that growth has been the everincreasing export of U.S. books.

The Congressional Research Service concluded in its analysis that should the manufacturing clause be eliminated, industry growth due substantially to increased exports could absorb the estimated potential loss of job opportunities.

However, if the manufacturing clause is not retained, there is the possibility of retaliation by foreign governments through the installation of manufacturing clause-like provisions would most likely severely affect this export growth because U.S. publishers would be required to manufacture in a foreign nation in order to sell their product in that foreign market. Foreign manufacturing requirements would most assuredly result in a severe loss of jobs in the U.S. printing industry.

The European Economic Community has already notified the Department of State about its grave concerns over any extension of the manufacturing clause and of its intention to take action based on its belief that such an extension would be violative of the General Agreement on Tariff and Trade—GATT.

Moreover, extension of the manufacturing clause will be viewed by many in the international copyright community as violative of the spirit of the Universal Copyright Convention—UCC—which minimizes formalities as conditions to copyright protection, and also as a further impediment to preservation of the option of the United States to adhere to the Berne Union Convention.

A British Government trade representative has already expressed the view that extension of the clause is contrary to the spirit of the Florence Agreement. A copy of that note is also attached to our testimony.

Therefore, the extension of the manufacturing clause, whatever its historical justification, is not in 1982 a necessary or proper part of the Copyright Act. The clause should be allowed to expire. If, after expiration, economic harm should befall the book manufacturing industry because of printing work lost to foreign industries, alternatives for relief are available without restricting the freedom of choice of U.S. copyright owners.

I will be happy to answer any of your questions, Mr. Chairman.

[A summary and attachments to the prepared statement follow:]

SUMMARY

The Copyright Office recommends that the Manufacturing Clause be allowed to expire as scheduled in section 601 of Title 17.

This recommendation is based on a number of findings of which the most important are:

1. The reasons for abolishing the clause which are articulated by Congress in 1976 apply with equal force today. No evidence was adduced which demonstrates that conditions in the affected industries have changed since 1976 to such an extent so as to persuade Congress to withdraw its conclusion that the clause should expire.
2. The United States stands alone among major book publishing countries in its control of the book trade through imposition of special manufacturing requirements in its copyright law. The expiration of the clause would demonstrate to the international copyright community that the U.S., as signatory to several important international treaties, is willing to reduce artificial barriers to unencumbered free trade and the ready exchange of information.
3. The expiration of the clause will end nearly a century of discrimination against one class of copyright owners: that is owners of literary works, since no manufacturing requirement exists with respect to works of art, musical compositions, dramatic works, sound recordings, or motion pictures.
4. Economic forecasts suggest that the percentage of books which may be printed abroad after expiration will not exceed the 10–19 percent range, and even a reduction of this size does not necessarily translate to the same proportional effect on employment rates in the United States. The Congressional Research Service found that industry growth due to increased domestic consumption and exports could off-set any threat of loss of job opportunities in the printing industry.
5. Although no one seems to know the exact ratio, whether in man-hours, or in money, between the manufacturing of works protected by the clause and those not so protected, it seems clear that much of the output of the U.S. printing consists of work not at all constrained by the manufacturing clause. Any forecast of substantial job loss in the printing industry must be tempered by the limited scope of the clause.

Other non-copright forms of relief from economic harm to the U.S. printing industry because of foreign industry are available through the International Trade Commission and tax incentives for domestic manufacture that are allowed to motion picture producers and could protect the U.S. printing industry if extended to the copyright owners of books and periodicals.

The extension of the manufacturing clause could lead to foreign retaliation which could adversely affect the U.S. publisher export market and U.S. printing jobs.

[Attachment 1]

DECEMBER 17, 1981.

Hon. ROBERT W. KASTENMEIER,
U.S. House of Representatives,
Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE KASTENMEIER: This supplements the Copyright Office's testimony concerning H.R. 3940. Most, but not all, of this supplementary information concerns the rather marked disparity between the results, in terms of economic effects, of the estimates of the Congressional Research Service and the Office of Foreign Economic Research of the Department of Labor. Although the latter report was not received into the record of your hearing, its conclusions drew attention there and, I note, in the Senate when S. 1880 was introduced. There are four points which must be considered by anyone evaluating the Labor Report.

1. The present manufacturing clause does not protect the number of job opportunities remotely as large as the Labor Report suggests, because the clause does not cover the range of printed material assumed by the Labor Report. Only nondramatic literary works consisting preponderantly of English-language material are covered. As construed by the courts, "preponderantly" means that the surface area of textual material must be measured against the surface area of illustrative and other nontextual material; only if the former outweighs the latter is the work within the clause's scope. (*Stonehill Communications, Inc.* v. *Martuge*, 512 F. Supp. 349 (S.D.N.Y. 1981)). Thus, estimates of lost job opportunities with respect to the printing of blankbooks, business forms, heavily illustrated catalogues, greeting cards and the like are not credible if based on the expiration of the clause, because such works, and the jobs of their manufacturers, are in no way affected by the clause. The Copyright Office report, which emphasized the book publishing industry, did not do so in an attempt to minimize the impact of expiration. Its emphasis was based on the historic fact that virtually all of the debates, court cases, and Customs interventions have occurred with respect to books. Prior to the Labor Report, no one, including Mr. Nordberg, the economist hired by the Book Manufacturers' Institute, had ever suggested that such sectors of the printing industry as newspapers, commercial printing, "miscellaneous publishing," and "miscellaneous printing services" would in any way be affected by the expiration of the clause. I do not understand on what basis they were included in the Labor Report; and its conclusions should not be accepted unless their inclusion is explained.

Particularly troublesome is the inclusion of commercial printing. The Department of Labor adopts an Office of Management and Budget definition of commercial printing. As can be seen in the attachment, taken from the OMB's Standard Industrial Classification Manual, the output of the sector denominated commercial printing consists almost entirely of works not protected by the clause: bags, bread wrappers, calendars, cards, sheet music, postcards, bank notes, maps, and the like. Printers concerned about losing work in the manufacture of non-literary works, such as these, have nothing to fear from the clause's expiration because they are not now protected. While no one seems to know how many jobs in the commercial printed sector *are* clause-related, that number is far smaller than indicated in the Labor Report.

The Labor Report fails to distinguish between printing and publishing, but at least 70 percent of jobs in the book industry are in publishing rather than printing, and thus not protected by the manufacturing clause. As was made clear at the hearing, these are, for all practical purposes, separate industries. Another division of the Labor Department, the Bureau of Labor Statistics, distinguishes in its reports between book publishing and book printing, but does not do so with respect to other printing/publishing sectors. No one has suggested that publishers are going to lose jobs if the clause expires; thus one may reasonably—indeed, must—question the propriety of lumping printers and publishers together when predicting job losses. Interestingly enough, with respect to the book industry, 71.4 percent of those employed in August of 1981 were in publishing rather than printing.[1] To the extent that the Labor Report has combined these sectors, one should probably discount its estimates by a like percentage, since only printers will even arguably be affected. Based on the limited scope of the clause and the differences between printing and publishing, the Copyright Office believes that fair analysis of Table 2 of the Labor Report (p. 5) should keep the following factors in mind:

SECTOR, DESCRIPTION, AND COMMENT

26.01—Newspapers; although covered by the clause, they are too time-sensitive to go abroad even at the 2 percent high range prediction.

26.02—Periodicals; they are far too time-sensitive to permit ocean transport from the Pacific Basin of anything like 15 percent of present output.

26.03—Book printing and publishing; 70 percent of these jobs are publishing and thus not threatened. Of the remaining 30 percent, not all of the output is protected by the clause. (Illustrated works, works of foreign authors, etc.).

26.04—Miscellaneous publishing; undefined in the Labor Report but, to the extent that this concerns publishing jobs, none should be lost through expiration.

26.05—Commercial printing; no one, including the supporters of the clause, has ever before suggested that commercial printing is at issue here. There is no evidence concerning the extent to which commercial printers' output is copyrighted. Only copyrighted literary works are covered by the clause; thus the data here must be discounted to whatever extent copyright is not claimed or the works are not literary.

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[1] "Employment & Earnings," October 1981, Bureau of Labor Statistics at 72.

26.06—Manifold business forms, blank-books, and binders; few job opportunities are threatened here since the works tend to fall into two categories unaffected by the clause: uncopyrightable works and works in which no copyright is claimed.

26.07—Greeting card publishing; the publishing-printing dichotomy is at issue here, as is the quantitative distinction between literary and other works. Few if any jobs should be threatened, since most greeting cards contain vastly more illustrative than textual materials.

26.08—Miscellaneous printing services; also undefined in the Labor Report. It seems unlikely that its products are literary works whose manufacturers are protected by the clause, since such works appear in some of the previous categories.

Of all of the sectors listed in Table 2, then, only 26.03 (Book printing and publishing) has even the potential for being seriously affected by expiration, and even there the predictions should be reduced by at least 70 percent to account for the vast majority of that sector's employment being in publishing than printing.

3. The sources for the quantitative estimates in the Labor Report are open to question because it predictions concerning output decreases are explained not by resort to objective data but only upon subjective "informed judgments of analysts in industry, labor, and government." With respect to the book industry, it is clear that the 35-40 percent range of output loss is taken directly and unquestioningly from the report commissioned by the Book Manufacturers' Institute and prepared by E. Wayne Nordberg to buttress their arguments in support of extension of the clause. There is no reason why the U.S. Government should adopt the numbers of an interested party without independent examination. With respect to other sectors, where the report predicts large job losses, no explanation at all is given for the predicted output losses. In addition, the Labor Report treats the manufacturing clause as having the effect of a 33 percent import duty on books because that is the subsidy paid by Australia to its book manufacturers. For the reasons articulated by CRS in its report and described in ours, the "Australian experience" is hardly relevant to the future of the U.S. industries; and, even if it were, it is unclear how the clause, which prevents certain business from taking place, can be compared to a duty which increases certain transaction costs. Although the Labor Report cautions repeatedly against over-reliance on its data, "pro-clause" advocates appear to rely on its numeric conclusions and ignore such caveats. The importance of the caveats may be seen by examining two of them: At page 12, the Labor Report states: "The lack of certain basic data, such as the percent of printed material in each sector that is actually copyrighted . . . prevented more accurate, point estimates."

Thus it is conceded that the percentage of copyrighted work is unknown. Since a critical issue in analyzing the effect of the expiration of the manufacturing clause is not merely whether a work is copyrighted, but also whether it is literary, the data become, of course, even more unreliable.

Then, at page 13, one reads: "The accuracy of the section one estimates rests on the assumptions . . . [which] are the informed judgments of analysts in industry, labor, and government. To the extent that these judgments are incorrect, the resulting estimates will be biased."

As stated above, these judgments do appear at best unexplained, if not clearly incorrect, thus meaning at least that an inference of bias would not be unjustified.

4. The Labor Department apparently assumes, incorrectly, that the clause's expiration will leave these jobs without alternative forms of protection. As I believe the hearing made clear, this is not at all the case. Expiration, combined with the protocol to the Florence Agreement, will place American printers on an equal footing with all other American workers. Provable threatened harm will entitle them to relief in the same forum to which most industries now go: the International Trade Commission.

The position of the Copyright Office is that the number of jobs and job opportunities potentially directly exposed by expiration, far from being in the hundreds of thousands, is in the range of 5,000 to 9,000 found by CRS. This is not to say that anywhere near this many jobs or opportunities would be lost however: growth in exports and domestic demand and the availability of conventional trade relief from the International Trade Commission should serve to prevent any significant losses whatsoever.

Since the hearing we have received information concerning possible retaliation against the United States if the clause is retained. According to persons involved in trade negotiations, the Common Market countries and Switzerland have at various times refrained from seeking trade relief against the United States on the belief that the clause would expire in 1982. As recently as last month the matter was raised at meetings in Washington in which the E.E.C. apparently manifested an intention to pursue relief under the General Agreement on Tariffs and Trade if the clause were to be retained. While the scope and effect of any retaliatory measures cannot easily be predicted, it is fair to assume that they will be adverse to U.S. interests. In addition, the British Embassy sent a letter to the State Department on December 9, 1981 (copy attached) in which it "note[s] with regret" the terms of H.R. 3940.

Thank you very much for the opportunity to amplify the record.

Sincerely yours,

DAVID LADD, *Register of Copyrights.*

Enclosures.

1. OMB Standard Industrial Classification Manual showing the output of all printing and publishing sectors.
2. Letter from the British Embassy.

EXECUTIVE OFFICE OF THE PRESIDENT·
OFFICE OF MANAGEMENT AND BUDGET

STANDARD INDUSTRIAL CLASSIFICATION MANUAL

1972

PREPARED BY THE STATISTICAL POLICY DIVISION

Major Group 27.—PRINTING, PUBLISHING, AND ALLIED INDUSTRIES

The Major Group as a Whole

This major group includes establishments engaged in printing by one or more of the common processes, such as letterpress, lithography, gravure, or screen; and those establishments which perform services for the printing trade, such as bookbinding, typesetting, engraving, photoengraving, and electrotyping. This major group also includes establishments engaged in publishing newspapers, books, and periodicals, regardless of whether or not they do their own printing. News syndicates are classified in Service Industries, (Industry 7351), and textile printing and finishing in Major Group 22.

Group No. Industry No.

271 NEWSPAPERS: PUBLISHING, PUBLISHING AND PRINTING

2711 Newspapers: Publishing, Publishing and Printing

Establishments primarily engaged in publishing newspapers, or in publishing and printing newspapers. These establishments carry on the various operations necessary for issuing newspapers, including the gathering of news and the preparation of editorials and advertisements, but may or may not perform their own printing. Commercial printing is frequently carried on by establishments engaged in publishing and printing newspapers, but, even though the commercial printing may be of major importance, such establishments are included in this industry. Establishments not engaged in publishing newspapers, but which print or lithograph newspapers for publishers, are classified in Industry Group 275. News syndicates are classified in Service Industries (Industry 7351).

Commercial printing and newspaper publishing combined
Job printing and newspaper publishing combined
Newspaper branch offices, editorial and advertising
Newspapers: publishing and printing, or publishing only

272 PERIODICALS: PUBLISHING, PUBLISHING AND PRINTING

2721 Periodicals: Publishing, Publishing and Printing

Establishments primarily engaged in publishing periodicals, or in preparing, publishing, and printing periodicals. These establishments carry on the various operations necessary for issuing periodicals, but may or may not perform their own printing. Establishments not engaged in publishing periodicals, but which print or lithograph periodicals for publishers, are classified in Industry Group 275.

Comic books: publishing and printing, or publishing only
Magazines: publishing and printing, or publishing only
Periodicals: publishing and printing, or publishing only
Statistical reports (periodicals), publishing of
Trade journals, publishing of

273 BOOKS

2731 Books: Publishing, Publishing and Printing

Establishments primarily engaged in publishing only, or in publishing and printing books and pamphlets. Establishments primarily engaged in printing or in printing and binding (but not publishing) books and pamphlets are classified in Industry 2732.

Book clubs, publishing
Book music: publishing and printing, or publishing only
Books: publishing and printing, or publishing only
Pamphlets: publishing and printing, or publishing only

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Group No. Industry No.

273 BOOKS—Continued

2732 Book Printing

Establishments primarily engaged in printing only or in printing and binding books and pamphlets, but not engaged in publishing. Establishments primarily engaged in publishing, or in publishing and printing books and pamphlets are classified in Industry 2731. Establishments engaged in both printing and binding books, but primarily binding books printed elsewhere, are classified in Industry 2789.

Book music: printing, printing and binding—not publishing
Books: printing, printing and binding—not publishing
Pamphlets: printing, or printing and binding—not publishing

274 MISCELLANEOUS PUBLISHING

2741 Miscellaneous Publishing

Establishments primarily engaged in miscellaneous publishing activities, not elsewhere classified, whether or not engaged in printing. Establishments primarily engaged in offering financial, credit, or other business services, and which may publish directories as part of this service, are not included in this industry but are classified in Service Industries.

Atlases: publishing and printing, or publishing only
Catalogs: publishing and printing, or publishing only
Directories: publishing and printing, or publishing only
Globe covers (maps): publishing and printing, or publishing only
Guides: publishing and printing, or publishing only
Maps: publishing and printing, or publishing only.
Micropublishing
Music, book or sheet: publishing and printing, or publishing only
Patterns, paper: publishing and printing, or publishing only
Race track programs: publishing and printing or publishing only
Shopping news: publishing and printing, or publishing only
Technical manuals and papers: publishing and printing, or publishing only
Telephone directories: publishing and printing, or publishing only

275 COMMERCIAL PRINTING

2751 Commercial Printing, Letterpress and Screen

Establishments primarily engaged in letterpress and screen commercial or job printing, including flexographic. This industry includes general printing shops, as well as shops specializing in printing newspapers and periodicals for others, and those which specialize in screen printing. Establishments primarily engaged in printing books, without publishing, are classified in Industry 2732, and greeting cards in Industry 2771. Establishments primarily engaged in printing from lithographic plates are classified in Industry 2752, and gravure and rotogravure printing in Industry 2754.

Bags, cellophane: letterpress and screen printing
Bread wrappers, letterpress and screen printing
Business forms, except manifold: letterpress and screen printing
Calendars: letterpress and screen printing
Cards, except greeting: letterpress and screen printing
Catalogs: letterpress and screen printing (not publishing)
Circulars: letterpress and screen printing
Color printing: letterpress and screen
Coupons: letterpress and screen printing
Decalcomanias, screen printing
Directories: letterpress and screen printing (not publishing)
Embossing on paper
Engraving, plateless
Envelopes: letterpress and screen printing
Facsimile letters: letterpress and screen printing
Fashion plates: letterpress and screen printing
Flexographic printing
Gummed labels and seals: letterpress and screen printing
Imprinting: letterpress and screen
Labels, printing or embossing only
Letterpress printing, screen and flexographic
Letters, circular and form: letterpress and screen printing
Magazines: letterpress and screen printing (not publishing)
Maps: letterpress and screen printing (not publishing)
Menus: letterpress and screen printing
Music, sheet: letterpress and screen printing (not publishing)
Newspapers: letterpress printing (not publishing)
Periodicals: letterpress printing (not publishing)

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Group No. Industry No.

275 COMMERCIAL PRINTING—Continued

2751 Commercial Printing, Letterpress and Screen—Continued

Plateless engraving
Playing cards: letterpress and screen printing
Post cards, picture: letterpress and screen printing
Posters including billboard: letterpress and screen printing
Printing, commercial or job: letterpress and screen
Printing: letterpress, screen and flexographic
Ready prints
Schedules, transportation: letterpress and screen printing
Screen printing, except on textiles
Screen printing on glass, plastic, paper and metal including highway signs
Seals: printing or embossing only
Souvenir cards: letterpress and screen printing
Stationery: letterpress and screen printing
Tags: printing and embossing only
Telephone directories: letterpress printing (not publishing)
Thermography
Tickets: letterpress and screen printing
Trading stamps: letterpress and screen printing
Visiting cards: letterpress and screen printing
Wrappers: letterpress and screen (including flexographic) printing

2752 Commercial Printing, Lithographic

Establishments primarily engaged in printing by the lithographic process. The greater part of the work in this industry is performed on a job or custom basis; but in some cases lithographed calendars, maps, posters, decalcomanias, etc., are made for sale. Offset printing, photo-offset printing, and photolithographing are also included in this industry. Establishments primarily engaged in lithographing books and pamphlets, without publishing, are classified in Industry 2732, and greeting cards in Industry 2771. Establishments primarily engaged in preparing lithographic plates and in related services are classified in Industry 2795.

Advertising posters, lithographed
Atlases, lithographed
Billheads, lithographed
Bread wrappers, lithographing only
Business forms, except manifold: lithographed
Calendars, lithographed
Cards, lithographing only
Circulars, lithographed
Color cards, paint: offset printing
Color lithography
Coupons, lithographing of
Decalcomanias (dry transfers), lithographed
Fashion plates, lithographed
Labels, lithographed
Letters, circular and form: lithographed
Lithographing on metal or paper
Maps, lithographing only
Menus, lithographed
Newspapers, lithographing only
Offset printing
Periodicals, lithographing only
Photo-lithographing
Photo-offset printing
Planographing
Playing cards, lithographed
Post cards, picture: lithographed
Posters, lithographed
Printing from lithographic plates
Printing, offset
Printing, photo-offset
Schedules, transportation: lithographed
Seals, lithographed
Souvenir cards, lithographed
Tags, lithographed
Tickets, lithographed
Trading stamps, lithographed
Transferring designs (lithographing)
Transfers, decalcomania and dry: lithographed
Visiting cards, lithographed
Wrappers, lithographing of

2753 Engraving and Plate Printing

Establishments primarily engaged in engraving and etching steel, copper, wood, or rubber plates; in using these plates to print stationery, visiting and other cards, invitations, maps, etc.; and in making woodcuts for use in printing illustrations, posters, etc. Engraving for purposes other than printing is classified in Industry 3479.

Announcements, engraved
Bank notes, engraved
Calendars, engraved
Cards, except greeting cards: engraving of
Currency, engraving of
Embossing plates for printing
Engraving of cards, except greeting cards
Engraving on copper, steel, wood, or rubber plates, for printing purposes
Engraving on textile printing rolls
Engraving, steel line: for printing purposes
Etching on copper, steel, wood, or rubber plates, for printing purposes
Halftones, engraved
Invitations, engraved
Maps, engraved
Plate printing
Post cards, picture: engraved
Printing from engraved and etched plates
Security certificates, engraved
Souvenir cards, engraved
Stationery, engraved
Stock certificates, engraved
Visiting cards, engraved
Woodcuts for use in printing illustrations, posters, etc.

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Group No. Industry No.

275 COMMERCIAL PRINTING—Continued

2754 Commercial Printing, Gravure

Establishments primarily engaged in gravure printing.

Bread wrappers, gravure printing
Business forms, except manifold: gravure printing
Calendars: gravure printing
Cards, except greeting: gravure printing
Catalogs: gravure printing (not publishing)
Circulars: gravure printing
Color printing: gravure
Coupons: gravure printing
Directories: gravure printing (not publishing)
Envelopes: gravure printing
Facsimile letters: gravure printing
Fashion plates: gravure printing
Gummed labels and seals: gravure printing
Imprinting: gravure
Letters, circular and form: gravure printing
Magazines: gravure printing (not publishing)
Maps: gravure printing (not publishing)
Menus: gravure printing
Music, sheet: gravure printing (not publishing)
Newspapers: gravure printing (not publishing)
Periodicals: gravure printing (not publishing)
Plates and cylinders, rotogravure printing: preparation of
Playing cards: gravure printing
Post cards, picture: gravure printing
Posters: gravure printing
Printing, commercial or job: gravure
Printing: gravure, photogravure, rotary photogravure, and rotogravure
Schedules, transportation: gravure printing
Souvenir cards: gravure printing
Stationery: gravure printing
Telephone directories: gravure printing (not publishing)
Tickets: gravure printing
Trading stamps: gravure printing
Visiting cards: gravure printing
Wrappers: gravure printing

276 MANIFOLD BUSINESS FORMS

2761 Manifold Business Forms

Establishments primarily engaged in designing and printing, by any process, special forms for use in the operation of a business, in single and multiple sets, including carbonized or interleaved with carbon or otherwise processed for multiple reproduction.

Autographic register forms, printed
Business forms, manifold
Continuous forms, office and business: carbonized or multiple reproduction
Fanfold forms
Sales books
Strip forms (manifold business forms)
Unit sets (manifold business forms)

277 GREETING CARD PUBLISHING

2771 Greeting Card Publishing

Establishments primarily engaged in the designing, publishing, and printing by any process of greeting cards for all occasions.

Birthday cards, except hand painted: printed, engraved, lithographed, etc.
Christmas cards, except hand painted
Easter cards, except hand painted: printed, engraved, lithographed, etc.
Greeting cards, except hand painted: printed, engraved, lithographed, etc.
Valentines, except hand painted: printed, engraved, lithographed, etc.

278 BLANKBOOKS, LOOSELEAF BINDERS, AND BOOKBINDING AND RELATED WORK

2782 Blankbooks, Looseleaf Binders and Devices

Establishments primarily engaged in manufacturing blankbooks, looseleaf devices, and library binders; and in ruling paper.

Account books
Albums
Blankbook making
Chart and graph paper, ruled
Checkbooks
Diaries
Inventory blankbooks
Ledgers and ledger sheets
Library binders, looseleaf
Looseleaf devices and binders
Looseleaf forms and fillers, pen ruled or printed only
Memorandum books, printed
Paper ruling
Pass books: bank, etc.
Receipt books
Record albums
Sample books
Scrapbooks

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Group No. Industry No.

278 BLANKBOOKS, LOOSELEAF BINDERS, AND BOOKBINDING AND RELATED WORK—Continued

2789 Bookbinding and Related Work

Establishments primarily engaged in edition, trade, job, and library bookbinding; in book or paper bronzing, gilding, and edging; in map and sample mounting; and other services related to bookbinding. Establishments primarily binding books printed elsewhere are classified in this industry, but those primarily binding books printed in the same establishment are classified in Group 278.

Beveling of cards
Binding only: books, pamphlets, magazines, etc.
Book gilding, bronzing, edging, deckling, embossing, and gold stamping
Bookbinding: edition, job, library, and trade
Bronzing books, cards, or paper
Display mounting
Edging books, cards, or paper
Magazines, binding only
Mounting of maps and samples, for the trade
Pamphlets, binding only
Paper bronzing, gilding, edging, and deckling
Paper cutting, except diecutting
Rebinding books, magazines, or pamphlets
Repairing books (bookbinding)
Swatches and samples, mounting for the trade
Trade binding services

279 SERVICE INDUSTRIES FOR THE PRINTING TRADE

2791 Typesetting

Establishments primarily engaged in typesetting for the trade, including advertisement typesetting.

Advertisement typesetting
Composition, hand: for the printing trade
Composition, machine: linotype, monotype, etc.—for the printing trade
Photocomposition
Typesetting, for the printing trade
Typographic composition

2793 Photoengraving

Establishments primarily engaged in preparing photoengraved plates (halftones and linecuts). These establishments do not, as a rule, print from the plates which they make, but prepare them for use by others.

Halftones (photoengraving plates)
Linecuts (photoengraving plates)
Photoengraving for the trade

2794 Electrotyping and Stereotyping

Establishments primarily engaged in preparing electrotype and stereotype plates. These establishments do not, as a rule, print from the plates which they make, but prepare them for use by others.

Electrotype plates
Electrotyping for the trade
Stereotype plates
Stereotyping for the trade

2795 Lithographic Platemaking and Related Services

Establishments primarily engaged in making lithographic plates and positives or negatives from which lithographic plates are made, and in related services. Establishments primarily engaged in printing by the lithographic process are classified in Industry 2752.

Lithographic plates or positives or negatives, preparation of

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Major Group 28.—CHEMICALS AND ALLIED PRODUCTS

The Major Group as a Whole

This major group includes establishments producing basic chemicals, and establishments manufacturing products by predominantly chemical processes. Establishments classified in this major group manufacture three general classes of products: (1) basic chemicals such as acids, alkalies, salts, and organic chemicals; (2) chemical products to be used in further manufacture such as synthetic fibers, plastics materials, dry colors, and pigments; (3) finished chemical products to be used for ultimate consumption such as drugs, cosmetics, and soaps; or to be used as materials or supplies in other industries such as paints, fertilizers, and explosives. The mining of natural rock salt is classified in mining industries. Establishments primarily engaged in manufacturing nonferrous metals and high percentage ferroalloys are classified in Major Group 33; silicon carbide in Major Group 32; baking powder, other leavening compounds, and starches in Major Group 20; and artists' colors in Major Group 39. Establishments primarily engaged in packaging, repackaging, and bottling of purchased chemical products, but not engaged in manufacturing chemicals and allied products, are classified in trade industries.

Group No. Industry No.

281 INDUSTRIAL INORGANIC CHEMICALS

This group includes establishments primarily engaged in manufacturing basic industrial inorganic chemicals. Establishments primarily engaged in manufacturing formulated agricultural pesticides are classified in Industry 2879; medicinal chemicals, drugs and medicines in Industry 2833; and soap and cosmetics in Group 284.

2812 Alkalies and Chlorine

Establishments primarily engaged in manufacturing alkalies and chlorine.

Alkalies
Carbonates, potassium and sodium
Caustic potash
Caustic soda
Chlorine, compressed or liquefied
Potassium carbonate
Potassium hydroxide
Sal soda
Soda ash
Sodium bicarbonate
Sodium carbonate (soda ash)
Sodium hydroxide (caustic soda)

2813 Industrial Gases

Establishments primarily engaged in manufacturing gases for sale in compressed, liquid, and solid forms. Establishments primarily engaged in manufacturing fluorine and sulfur dioxide are classified in Industry 2819; household ammonia in Industry 2842, and other ammonia in Industry 2873; and chlorine in Industry 2812. Distributors of industrial gases and establishments primarily engaged in shipping liquid oxygen are classified in trade.

Acetylene
Argon
Carbon dioxide
Dry ice (solid carbon dioxide)
Gases, industrial: compressed, liquefied, or solid—m/pm
Helium
Hydrogen
Neon
Nitrogen
Nitrous oxide
Oxygen, compressed and liquefied

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BRITISH EMBASSY
COMMERCIAL DEPARTMENT
3100 Massachusetts Avenue, N.W.
WASHINGTON D.C. 20008
Telephone: (202) 462-1340

Mr Thomas F O'Merron
Special Trade Activities &
Commercial Treaties Division
Room 3830
Department of State
Washington DC

9 December 1981

Dear Tom:

We spoke yesterday about HMG's concerns on the Manufacturing Clause in the US Copyright Act of 1976 (PL 94-553) which has been the focus of recent discussion in the House Subcommittee on Courts, Civil Liberties and the Administration of Justice.

I am now enclosing a copy of our Note 234 of today's date, and am sending copies as indicated below. I look forward to hearing the Administration's views, and would ask you to bring this Note and our Note of 27 March to the attention of the Subcommittee's members.

Yours sincerely

Tony Burne

A R Burne
First Secretary
(Commercial & Agriculture)

cc Hon Don DeKieffer, General Counsel, USTR ✓
Mr A Patrick Harrison, Assistant Register, US Copyright Office
Mr William Edgar, Director, Office of International Trade, Department of State

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No. 234

Her Britannic Majesty's Embassy present their compliments to the United States Department of State and wish to refer to the Embassy's Note No. 78 of 27 March 1981 (a copy of which is attached for ease of reference) concerning the Manufacturing Clause - Section 601 of the US Copyright Act of 1976 (Public Law 94-553).

The Department will be aware that the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee is considering a bill (HR 3940) which proposes an extension of the Manufacturing Clause beyond 1 July 1982. Her Majesty's Government have noted this proposal with regret, and wish to remind the Department of the views expressed in the Embassy's Note No. 78 referred to above.

The prohibition, with minor exceptions, of the importation into the United States of works by US authors manufactured abroad and destined for the US market prevents these authors using British publishers and printers. No similar discrimination exists in the United Kingdom.

Her Majesty's Government urge, therefore, that the United States Administration should take such steps as are open to them to ensure that the Manufacturing Clause expires no later than 1 July 1982, as provided for in the existing legislation, and request the Department to bring the views expressed in this Note and in Note No. 78 to the attention of the Subcommittee.

Her Britannic Majesty's Embassy avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration.

British Embassy
WASHINGTON

9 December 1981

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Note No 78

Her Britannic Majesty's Embassy present their compliments to the United States Department of State and wish to bring to the attention of the Department of State the continuing concern of Her Majesty's Government about the manufacturing clause - Section 601 of the US Copyright Act of 1976 (Public Law 94-553) - which discriminates against the legitimate trade interests of British printers and publishers. The requirements of the manufacturing clause in practice prevent British printers and publishers from competing for works by US authors destined for the US market. There is no such discrimination against the US or other foreign printers and publishers in the United Kingdom. Moreover, Her Majesty's Government consider it anomalous that a law, principally concerned with protecting the rights of authors and publishers, should incorporate a provision restricting the enforcement of those rights if they choose to have their works printed outside the United States or Canada.

Her Majesty's Government understand that the manufacturing requirement was first introduced into US copyright law in the 19th Century, in order to nurture an infant US printing industry. This situation can hardly be said to exist today. It is inconceivable that the present US printing industry needs the protection of the manufacturing clause. To British knowledge no other developed nation has such restraints written into its copyright laws.

Her Majesty's Government consider that the existing exemption of Canada from the requirements of the manufacturing clause is inequitable and contrary to the international obligations of the United States under the General Agreement on Tariffs and Trade. Her Majesty's Government believe that there is provision in current legislation for the manufacturing clause to lapse on 1 July 1982, thus removing this discriminatory feature of US copyright law and extending fair treatment to all countries.

Her Majesty's Government urge, therefore, that the report currently being prepared for the Congress by the US Register of Copyrights should recommend that the legislation should not be amended to allow for the continuation of the manufacturing clause after 1 July 1982, and request that the Department of State should bring the views expressed in this Note to the attention of the Register.

Her Britannic Majesty's Embassy avail themselves of this opportunity to renew to the Department of State the assurance of their highest consideration.

British Embassy
WASHINGTON

27 March 1981

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ATTACHMENT 2

DELEGATION
OF THE
COMMISSION OF THE EUROPEAN COMMUNITIES

5/26

The Delegation of the Commission of the European Communities presents its compliments to the Department of State, and refers to the House of Representatives Bill No. H.R. 3940, which proposes to amend the Copyright Act of 1976, and in particular Section 601 of the Act in such a way as to remove the automatic expiry date of 1 July 1982 from the section. The European Communities would object most strongly to the enactment of such legislation.

The Community considers that the existence of Section 601 (the "Manufacturing Clause") has for many years been a deliberately imposed barrier to trade which has had the effect of completely excluding the European printing and publishing industries from the United States market, for works written by American authors printed outside the United States. This is a kind of protection which is enjoyed by no country in the Community and by few industrialized countries in the world. It is also noted that the clause contains an element of discriminatory treatment in the preference extended to Canada.

The re-enactment by the United States of the provision in its present form took place in 1976. As the Community was given to understand by the United States Administration that this barrier to trade was to be removed at a specified date, negotiations were not pursued during the Tokyo Round of Multilateral Trade Negotiations beyond the state of registering the Community's strong interest in this matter. The maintenance of the section

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would be in clear contravention of the United States' obligations under the GATT. This is the more serious in that the clause contains a discriminatory provision, imports from Canada being exempted from its effect.

The Community understands that the United States Administration has submitted to the Congress a legislative proposal that would allow the President to terminate the Manufacturing Clause, after taking into account the advice of the United States Trade Representative that such termination is in the national interest.

As stated above, the Community considers the termination of the Manufacturing Clause to be part of the final equilibrium of concessions reached during the Tokyo Round of Multilateral Trade Negotiations. The Community, therefore, obviously finds unacceptable any suggestion that the United States might be able to negotiate further concessions in return for the termination of the clause.

Furthermore, any suggestion that the President should exercise a waiver only to the benefit of countries offering reciprocal arrangements to the United States is equally unacceptable.

The Community urges the United States Administration to secure the complete expiry of the Manufacturing Clause, up to and including presidential veto of any act passed by Congress having the effect of maintaining this clause. In the absence of a satisfactory outcome, the present note verbale constitutes due notice of the Community's intention to have recourse to the appropriate dispute settlement procedures of the General Agreement on Tariffs and Trade

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The Delegation of the Commission of the European Communities welcomes the opportunity to renew to the Department of State the assurances of its highest consideration.

DELEGATION
WASHINGTON, D.C.

Washington, D.C.
April 1, 1982

ATTACHMENT 3

British Embassy
3100 Massachusetts Avenue NW Washington DC 20008
Telex Domestic USA 83-2370/89-2384
Telex International 64224(WUI)/440015(ITT)
Telephone (202) 462-1340

Mr Thomas O'Herron
Department of State
Washington DC

Your reference

Our reference

Date 20 May 1982

Dear Tom:

US COPYRIGHT LEGISLATION: MANUFACTURING CLAUSE

/ I thought that you should see a copy of the attached letter which Lord Cockfield, Secretary of State for Trade, has written to Ambassador Brock, and which we have just delivered.

I am sending a copy of this letter and its enclosure to those listed below.

Yours sincerely
Tony Burne

A R Burne
First Secretary
(Commercial & Agriculture)

cc: Mr Michael Hathaway, General Counsel's Office, USTR
Mr Douglas Newkirk, Assistant USTR,
Mr Anthony P Harrison, US Copyright Office, Library of Congress ✓

From the Secretary of State

The Honorable William Brock
United States Trade Representative
600 17th Street NW
Washington DC

13 May 1982

Dear Ambassador,

Now that I have taken over from John Biffen as Secretary of State for Trade, I should like to convey to you my warmest greetings, and say how much I look forward to working with you and your colleagues in the Administration in tackling the difficult problems that beset the international trading system at the present time.

However I hope you will not mind if I begin our relationship by raising an important problem: I am writing to you to express my concern at the prospect of the provisions of Section 601 (the "Manufacturing Clause") of the US Copyright Act 1976 (public law 95-553) being extended beyond 1 July 1982 by legislation currently before the Congress, specifically Bill HR3940, sponsored by the late Representative Ashbrook.

I believe that the manufacturing requirement was first introduced into the United States Copyright Law in the nineteenth century in order to nurture an infant American printing industry. The circumstances which led to this kind of protection can hardly be said to exist today. Should HR 3940 become law, it would perpetuate a serious and quite unjustified non-tariff barrier to trade. During the Tokyo round of GATT negotiations, the US Administration pledged to remove it. The continuation of the manufacturing clause in any form would unbalance the equilibrium of concessions which were negotiated. The Bill is also contrary

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to the spirit of the UNESCO "Florence Agreement" to which both our countries are signatories. Neither the UK - nor indeed any other member states of the European Communities -imposes such restrictions: all we ask is that our printing and publishing industries be granted the same opportunity to bid for work in the United States as your printers do for work here.

You will know that Her Majesty's Government and the European Commission have made repeated diplomatic representations to the Administration during the last year or so. I am writing to you personally to ask you and your colleagues to use what further influence you can with Congress to ensure that this non-tariff barrier is not extended. The removal of the manufacturing clause is, in my view, long overdue. If it is retained, I am convinced that the European Community will pursue its complaint in the GATT - a complaint which we would strongly support. The Community is considering other measures which are now being widely advocated by the European printing industry. This industry has been faced for decades with a fundamentally inequitable situation and is now legitimately and increasingly concerned about the prospect of this situation being prolonged.

Yours sincerely,

Cockfield

LORD COCKFIELD

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Chairman GIBBONS. Mr. Harrison, you made a number of important points there, and I have to say, I apologize in the beginning. This is a part of our trade, tariff, and copyright laws I have not been aware of until recently.

You say the book industry potentially could lose exports because, unless we allow this to expire, other nations will go ahead and put on domestic content-type of requirements.

Is that one of your positions?

Mr. HARRISON. That is certainly a possibility that has been suggested to us, and the result of that would be that if a foreign nation had a manufacturing clause provision—that is a provision requiring works that were sold in their country to be manufactured in their country—it would necessarily mean that for American publishers to sell in that market, they would have to use foreign printers who would not employ American workers.

Chairman GIBBONS. Do we now export much of our printed material?

Mr. HARRISON. Yes, sir. In fact, the exports have grown substantially over the years.

In 1969, book exports were something like 166 million, and, in 1981, it had reached 600 million.

Chairman GIBBONS. A hundred and sixty-six million?

Mr. HARRISON. Yes; in 1969. Today, it is over 600 million.

Chairman GIBBONS. Six hundred million.

If countries retaliated against us and enacted the same kind of provision that we have, that 600 million could be a very serious loss in exports; is that right?

Mr. HARRISON. That is correct.

Chairman GIBBONS. Mr. Harrison, do you feel that the manufacturing clause is solely a matter of trade policy rather than copyright policy?

Mr. HARRISON. I think that is what the purpose has evolved to be. It is certainly a copyright issue in the traditional sense. It discriminates against whole classes of copyright owners, in that it only covers one type of corporate owners and not the others.

The manufacturing clause really only affects the authors of works of nondramatic literary material, and that really translates into authors of books or periodicals, or contributions to each of those.

Therefore, it does not apply to all the other copyrighted work, photographs, maps, motion pictures, and they are not required to be manufactured in the United States in order to be sold in the United States.

Chairman GIBBONS. Mr. Harrison, what is the narrow area that it applies to?

Mr. HARRISON. The technical term in the law is nondramatic literary material, and the biggest class of material falling under that definition are books and periodicals and contributions to each of those two.

It does not apply to matchbooks.

Chairman GIBBONS. What?

Mr. HARRISON. Matchbooks that frequently we see published abroad, and there are other examples of material printed outside the United States. It does not apply to blank legal forms, commercial forms, calendars, and so forth. It does not apply to those kinds of works.

Chairman GIBBONS. That is because of the——

Mr. HARRISON. It has to be English language text and nondramatic literary material. Most of these works do not contain sufficient English language text to be under the manufacturing clause.

Chairman GIBBONS. Let me ask the people from the Department of Labor: Did you take all of this into consideration in your estimates?

Mr. ROUSSLANG. Yes; we did.

Chairman GIBBONS. You don't think there is the possibility of retaliation by our trading partners?

Mr. ROUSSLANG. There is such a possibility. However, the probability of retaliation is difficult to determine and, so it was not taken into consideration in the study. Neither were exchange rate adjustments.

Chairman GIBBONS. Don't you think the possibility of retaliation is important?

Mr. ROUSSLANG. Yes; it is important. Just on some rough calculations here, if we list all 600 million in book exports that would probably translate into something like 15,000 job opportunities, maybe 20,000 job opportunities.

Chairman GIBBONS. Fifteen to twenty thousand jobs?

Mr. Frenzel?

Mr. FRENZEL. Thank you, Mr. Chairman.

I am interested in all those jobs that the Labor Department talks about.

Tell me what the Office of Foreign Economic Research is, and how many it has, and why we have it.

Mr. ROUSSLANG. The principal purpose of the Office is to research the effects of proposed and recent legislation as well as other changes in international economic conditions on employment and earnings of U.S. workers.

Chairman GIBBONS. What did you say the purpose was?

Mr. ROUSSLANG. To calculate the effects of proposed and recent legislation as well as other changes in international economic conditions, such as changes in competitiveness, exchange rates and foreign investment on earnings and employment of U.S. workers.

Mr. FRENZEL. How many people does this organization employ?

Mr. ROUSSLANG. Now, I think we have 9 or 10 professionals, economists.

Mr. FRENZEL. Professional economists in this case.

Mr. ROUSSLANG. Right.

Mr. FRENZEL. Tell me something about your survey that showed all of those hundreds of thousands of jobs that are going to be lost. Can you present it to the committee?

Mr. ROUSSLANG. Yes. A copy of the study was supposed to be given to you.

Mr. FRENZEL. Somehow, it has not been. I have not seen it. Describe to me the methodology of the study.

Mr. ROUSSLANG. Basically two approaches were used to calculate the direct effects on workers in the printing and publishing industry.

In one approach, we looked at over 400 different individual parts of the industry. These parts were grouped into about 17 classifications, and we estimated the percentage reduction in output that each classification would suffer if the manufacturing clause were allowed to expire. These percentages were based on opinions of Government people, industry experts, et cetera.

Those effects were then entered into——

Mr. **FRENZEL**. Did you call up the people who were asking for the protection and ask them to be heard, took their numbers?

Mr. **ROUSSLANG**. We took our members from a variety of sources, including people in the administration, such as industry experts in the Department of Commerce.

Mr. **FRENZEL**. It is a spectacular number, and the next time we are doing revenue estimates for the budget, I think we will seek out the Office of Foreign Economic Research, because you have wonderful numbers.

That being the case, if all those jobs are going to be lost, when we take away this protection, and if Canada is the closest country to us and the one most likely to get all that business, and if we were to accept Mr. Schulze's amendment to knock the Canadian exemption out, the United States, therefore, must be able to get more new jobs than that. So are you suggesting that we accept the Schulze amendment and get 200,000 new jobs?

Mr. **ROUSSLANG**. No; I would not suggest it.

Mr. **FRENZEL**. How come?

Mr. **ROUSSLANG**. The study that we have done is a technical study. It is not meant to imply that we believe in trade restrictions, or that we believe the manufacturing clause should not be allowed to expire.

Mr. **FRENZEL**. Thank you very much.

Mr. Harrison, I listened to your testimony with some care. Until I heard it and read it, I was laboring under the delusion it was only unfair to our trading partners. We hear all this business about the unequal playing field, the level and unlevel playing field. I see in this business we have the only unlevel playing field in town.

Mr. **HARRISON**. That is correct, sir.

Mr. **FRENZEL**. Your testimony shows it discriminates against Americans too. The guy who writes a musical opus can get that published abroad and he can be protected by the copyright law, can't he?

Mr. **HARRISON**. That is correct.

Mr. **FRENZEL**. The guy who writes a book cannot because of this law, even though it would be advantageous for him to publish that book abroad, is that correct?

Mr. **HARRISON**. That is correct. There is a provision in the law an American author of a book can go abroad, in special circumstances, but it is a provision that is so complicated it is very rarely used.

Mr. **FRENZEL**. A playwright would also have the ability to go abroad, would he?

Mr. **HARRISON**. Yes.

Mr. **FRENZEL**. But just the person who writes prose is discriminated against?

Mr. **HARRISON**. That is correct.

Mr. Frenzel. Why do you suppose this chap or person was singled out for such abuse?

Mr. Harrison. It has to do with the legislative history of the act. The clause came into existence in 1891 as a way of protecting—the United States was a pirate at that time. We printed the books of foreign authors without any royalties paid. It was a way for the United States to get into the international copyright community and start to do justice in that area.

A part of the price of that was protection for the U.S. printing industry. I guess what I am saying is the reason that it is that way is because the U.S. printing industry has a very strong, effective lobby.

Mr. Frenzel. Does this kind of thing jeopardize our ability to make international agreements like the Florence Agreement?

Mr. Harrison. Yes; it would.

Mr. Frenzel. It makes your job in the Copyright Office more difficult?

Mr. Harrison. That is correct.

Mr. Frenzel. Do you take a fair amount of abuse from your foreign friends?

Mr. Harrison. We certainly do.

Mr. Frenzel. So do I.

It is very hard for us to go abroad and say fellow, level the playing field when they point to our mountainous playing field in this country.

Well, I thank you. I think yours is a splendid testimony. I hope the Congress is persuaded not to let this go through.

Thank you, Mr. Chairman.

Chairman **Gibbons.** Mr. Bailey?

Mr. Bailey. Thank you, Mr. Chairman.

Mr. Harrison, you talked about the Judiciary Committee during your testimony. You quoted something to the effect that there is no rationale or reason for the continuation of the manufacturing clause.

I think that is fair paraphrasing of what you said, is that right?

Mr. Harrison. That is what the House Judiciary Committee said in 1976 when they passed the present law.

Mr. Bailey. Do you want to know what they just voted on recently? Do you want to tell everyone here what they voted on?

Mr. Harrison. They voted a 4-year extension of the bill.

Mr. Bailey. By what vote, Mr. Harrison?

Mr. Harrison. I don't know what the vote was.

Mr. Bailey. Would you like me to tell you what the vote was?

Mr. Harrison. Fine.

Mr. Bailey. Twenty-two to nothing.

Twenty-two to nothing. Do you have any dialog there with you? I don't know. I thought if we were going to quote an authority like that, we should perhaps have reason why; do you know why?

Mr. Harrison. Do I know why or do I have a feeling why? I don't know specifically why.

Mr. Bailey. No. I have feelings about all kinds of things too.

Mr. Harrison. Fine.

Mr. **Bailey**. I just wondered do you know why? I don't know why. It is not a question meant to trap you, incidentally. I don't know why.

I thought if you had done your research, your people had done their research, you maybe would have a reason for that.

Mr. **Harrison**. I don't know why, Mr. Congressman.

Mr. **Bailey**. Your feelings are they were probably beset by a host of lobbyists or things of that sort?

Mr. **Harrison**. I have heard that happens here.

Mr. **Bailey**. Twenty-two to nothing. They all lack courage?

Well, it was interesting. It was 22 to nothing. Your foreign friends, who are they? Who are the people that told you that there is going to be retaliation?

I think we ought to get that on the record.

Mr. **Harrison**. We have a statement of the European Economic Community.

Mr. **Bailey**. You said you talked to them?

Mr. **Harrison**. If I said that, I am misleading you.

Mr. **Bailey**. You have not been told?

Mr. **Harrison**. Just a moment. There is a——

Mr. **Bailey**. Excuse me.

Mr. **Harrison**. There is a proposal for a manufacturing clause type provision recommended by Adolph Dietz who is a consultant to the European Economic Community. That is in writing and is published in his book.

Mr. Meyer has a statement to add.

Mr. **Meyer**. I spoke briefly with the Washington Office of the European Community, the EEC Office in Washington.

Mr. **Bailey**. They are certainly not lobbyists like those hordes that descend on the Judiciary Committee, of course. What did they tell you?

Mr. **Meyer**. I suspect they are rather like them.

Mr. **Bailey**. They are rather like them?

Mr. **Meyer**. When they are wearing their lobbying hats, yes, sir. They say essentially if this is extended based upon their perception given by several previous administrations from both parties that the manufacturing clause was about to expire and therefore should not be a sticking point internationally, that they would make the noises and file the protests they felt compelled to do if extension were to eventuate.

In addition we also learned the Peoples' Republic of China, which presently has no copyright system, has undertaken studies and outreach to this country and others to learn more about copyright in order to implement a domestic and international copyright system.

Mr. **Bailey**. The Peoples' Republic of China will do anything. I understand their situation. I have talked to them. They are nice folks, I suppose.

They will do just about anything to get material from this country, to trot them in here is silly. They would do anything to cooperate, to get information they needed.

I also have been told that what the EEC is going to do is complain about GATT. They have not talked about retaliation. The word "retaliation" was used. I would like to know why it was used.

Somebody told you people something unless you are just puffing here.

Mr. **MEYER**. We have been told from time to time——

Mr. **BAILEY**. Let me go back to Mr. Harrison. He testified, if you don't mind.

Where did retaliation come from? Where did you pick that up? Did you read it?

Mr. **HARRISON**. I am saying in the recommendation of Adolph Dietz to the European Economic Community——

Mr. **BAILEY**. Where is he from? Who is he?

Mr. **HARRISON**. I think he is a German national. I am not certain. He is a consultant to the European Economic Community and in his recommendation, his report which is published in English in the United States——

Mr. **BAILEY**. He is a consultant, not a policymaker.

Mr. **HARRISON**. They hired him. Apparently they are acting on a number of his recommendations. That is one of them, a manufacturing clause like provision.

Mr. **BAILEY**. The fact is, you have not been told by foreign friends we are going to suffer retaliation if this huge, this very unimportant, insignificant——

Mr. **HARRISON**. No. I have not specifically been told that myself, no.

Mr. **BAILEY**. I think that helps. I misunderstood you. I apologize. It is probably those mikes. I apologize for misunderstanding what you had to say.

Mr. **HARRISON**. I apologize to you if I misled you in some way.

Mr. **BAILEY**. I am sure you didn't mean to.

Let's talk about the nature of the material.

Mr. Gibbons was asking you about that material. Mr. Frenzel was raising excellent questions about it.

What does that nondramatic literary material include?

Mr. **HARRISON**. It includes material that——

Mr. **BAILEY**. Tell me about scientific articles.

Mr. **HARRISON**. It would include that material.

Mr. **BAILEY**. The manufacturing clause covers scientific articles?

Mr. **HARRISON**. Yes.

Mr. **BAILEY**. You know, that is something. I read not too long ago about an American author of a scientific piece that ended up being very important—in theoretical mathematics, incidentally, which I didn't think was covered.

Certain aspects of particle research, and so forth, in fact are covered because the impact in physics, basic particle physics, particularly in fusion, thermonuclear reaction, physical reactions are very, very important. They have to do with weapons programs, and so forth.

In fact that article was published in Germany, in German and there was a great hue and cry. The reason was, incidentally, there was some kind of fluke here or a fellow couldn't get a publisher. But you are telling us that scientific research materials, for example, let's say somebody goes for a doctoral thesis, doing basic particle research, is that covered?

Mr. **HARRISON**. Yes.

Mr. **BAILEY**. It is covered?

Mr. **Harrison**. If it is written in the English language, yes.

Mr. **Bailey**. If I go out there and write a book that becomes the modern version of "Animal Farm" or something like that, is that covered?

Mr. **Harrison**. Yes.

Mr. **Bailey**. Suspend for one minute.

So some of that material can have or potentially could have security implications. I don't want to blow that out of proportion. I do understand that anything that is of a classified type would fall under totally different laws and totally different situations. I don't want to make overdue with that.

I would like to say to you that during previous work I had done, there are implications in the technical area and in the technology export area that do have implications here. I think you ought to address those. I am sure you are aware of them.

I think it is important for the committee to know those are important considerations. I think you know that they are, particularly when you have an author or have someone working on a project who seeks a publisher or works over time with a publisher on a particular article.

Mr. **Harrison**. Mr. Bailey, the Copyright Office would never recommend that provisions be included in the copyright law that would prevent the materials protected by the law from being published and freely disseminated.

Mr. **Bailey**. I understand that. You were talking about legislative history. I want you to know a significant portion of the legislative history of the technology clause has dealt with the technological outflow from the United States of America. Are you aware of that?

Mr. **Harrison**. Yes.

Mr. **Bailey**. All right. I think the committee should know that.

I would much rather sell a finished article or even suffer some of the losses we have suffered than I would some of the technology outflow the Nation is suffering.

Thank you very much for the help you have given in answering the questions.

Thank you, Mr. Chairman.

Chairman **Gibbons**. Thank you, Mr. Bailey.

Further questions?

If not, thank you very much.

The Chair is going to use its prerogative a little to try to move this on. We have a lot of business today. I am going to call next the Printing Industry of America and ask them to come forward. After that I am going to group some of the witnesses. After that I will take up Mr. Koplan by himself for the AFL-CIO. Then I will group the Association of American Publishers, the Authors League of America, and the Council for a Competitive Economy on one panel.

If anyone has any serious objection to that, I would appreciate them letting me know.

Our next witness is the Book Manufacturers Institute, Inc., the Printing Industries of America, Inc., Mr. Nordberg and Mr. Prine.

Mr. Prine, I have conversed with Mr. Rostenkowski, the chairman of this committee, about your interest in this matter. He assured me he is deeply interested in it.

Your formal statements will be included in the record in full. You may summarize if you are able to summarize them briefly.

STATEMENT OF ARTHUR C. PRINE, JR., VICE PRESIDENT, R. R. DONNELLEY & SONS CO., ACCOMPANIED BY BENJAMIN Y. COOPER, VICE PRESIDENT OF GOVERNMENT AFFAIRS, PRINTING INDUSTRIES OF AMERICA, AND STEPHEN F. OWEN, JR., GENERAL COUNSEL, BOOK MANUFACTURERS' INSTITUTE, INC.

Mr. PRINE. I am Arthur Prine with R. R. Donnelley & Sons in Chicago, Ill.

Essentially I represent the book manufacturing industry. With me is Wayne Nordberg, a distinguished economist and a partner in Prescott, Ball & Turben. With us is Steve Owen, counsel for the Book Manufacturers Institute, and Ben Cooper, who is head of legislative affairs for the Printing Industries of America.

We understand the time pressures. I shall provide a brief summary. Then Mr. Nordberg will comment briefly on the economic implications.

Basically we are asking the Congress to continue a copyright law provision that has been part of the law for over 90 years. Over this period a large and important industry has been developed with thousands of companies, billions of dollars of investment, and hundreds of thousands of jobs.

Although the coverage of the clause has been reduced over the years, it is still extremely important to the U.S. printing industry.

The second point I would make is this: While estimates vary—and you have heard a lot of discussions on this this morning, it seems clear that the death of the manufacturing clause would result in the loss of several hundred thousand jobs in the United States. Japan and the Pacific Basin would be the primary beneficiaries.

The third point is that with Japan working hard to preserve its own trade barriers, and with U.S. officials pushing Japan to open up U.S. markets, what a curious move it would be for us simply to hand Japan one more industry.

We understand this is one reason why the Special Trade Representative's Office favors—at least at this point—continuation of the clause.

The Special Trade Representative's Office favors continuation of the clause but wants executive authority to terminate it. Because we are concerned that the STR might face pressures to trade our industry off to help another, we do not believe Congress should delegate such authority.

We should also say that we are concerned about their real motivations in this case because some of the discussions and the memorandum that were alluded to earlier rather indicate hostility to the clause on the part of the STR.

We believe the preservation of the clause is of such fundamental importance to our industry that we strongly believe congressional authority should not be delegated.

There are two reasons why we believe this is not a classic or genuine free trade issue. The manufacturing requirement in copyright is basically a condition of the copyright monopoly. Our Government is essentially saying to the copyright owner, "We will give you a copyright monopoly in the world's largest market, but we want you to have the material produced in the country that is granting you the monopoly."

We do not believe that requiring American manufacture of a product as a condition for granting the privilege of a legal monopoly of the sale of that product in this country conflicts with general principles of free trade.

One other major point on the subject of free trade. Continuation of the manufacturing clause we believe will actually promote free trade. Because the United States is a signatory to the Florence Agreement and cannot impose duties on educational, scientific, and cultural materials, the manufacturing clause is the only card we have to play in the printing trade war.

Canada and other countries who are not signatories to the Florence Agreement are free to impose duties.

Indeed, Canada has erected a massive wall of trade barriers to stop U.S. printers and publishers from competing in Canadian markets. These barriers include effective duties of 40 percent on major items as well as highly discriminatory tax laws and discriminatory mailing rates.

Six years ago the Congress, with our full support, granted a manufacturing clause exemption to Canada. We did this because of Canadian commitments to pull down their printing and publishing trade barriers.

Our Canadian friends have not lived up to their commitments. I would ask a query here: With the U.S. manufacturing clause scheduled to phase out in 1982, why should they bother to honor their commitments? But now if Congress will extend the manufacturing clause we can turn to Canada and say, "Pull down your massive trade walls, or we will cancel your exemption."

This is exactly what the Congress intended when it granted the Canadian exemption in 1976.

The final conference committee report very specifically states that if the Canadian Government does not move promptly—and I am quoting here—"we would expect Congress to remove the Canadian exemption."

Quite clearly, gentlemen, we will not be able to remove the exemption unless the clause is in existence. Allowing the manufacturing clause to phase out now would simply amount to unilateral disarmament.

We find unilateral disarmament undesirable in trade as well as in military matters.

In conclusion, we believe the continuation of the manufacturing clause will not only help to preserve hundreds of thousands of U.S. jobs, but will also promote the cause of free trade.

I mentioned that I am from R. R. Donnelley & Sons Co. We are the country's largest printer. We have some 20 plants in 14 locations. We, in our company are doing everything we can to maintain the vitality of the U.S. printing industry. We are doing everything we can to keep these jobs in the United States. But if the manufacturing clause expired, if you force us to export our business to send jobs overseas, we are prepared to do so.

We do not want to export jobs, but if you force us to the wall, we are prepared to move. We are large, we are well-staffed, we have the necessary manufacturing and technical resources; and we are well financed.

We can move overseas if you force us to do so, but most companies in the printing industry are not. It is on this multitude of small businesses that the blow will fall most heavily if the manufacturing clause is allowed to expire.

Most small businesses will neither be able to compete with Far East plants nor have the resources to move there. They and their employees will bear the consequences in harshest terms. That is my summary.

I will turn to Wayne Nordberg who will comment on the economic implications.

[The prepared statement follows:]

STATEMENT OF ARTHUR C. PRINE, JR., VICE PRESIDENT, R. R. DONNELLEY & SONS CO., ON BEHALF OF BOOK MANUFACTURERS' INSTITUTE, INC.

TOPICAL OUTLINE

Manufacturing Clause has been part of Copyright Law for over 90 years. A strong printing industry has been built with the manufacturing clause in place.

While estimates vary, it seems clear that death of the Manufacturing Clause would result in exporting several hundred thousand American jobs.

Death of the Clause would result in export of jobs to the Pacific Basin, particularly to Japanese printing companies.

Congress should not delegate its authority to terminate the Clause.

The Manufacturing Clause question is not a classic free trade issue: Condition of monopoly; continuation of the Manufacturing Clause will promote free trade.

STATEMENT

I am Arthur C. Prine, Jr., Vice President of R. R. Donnelley & Sons Company, headquartered in Chicago, Illinois. I am testifying today specifically on behalf of the Book Manufacturers' Institute, although it should also be noted that my company is the largest printer in the United States, with some 20 plants in 14 locations across the country. We are also members of The Printing Industries of America which is also represented here today.

We are asking the Congress to retain the Manufacturing Clause as part of U.S. Copyright Law. This request is based on four reasons—

1. Industry based on clause.—Over many years a large and important industry has developed in reliance on the continued existence of the Manufacturing Clause. The Manufacturing Clause has been a part of U.S. law for more than 90 years. Since it was first introduced in 1891, thousands of companies have come into existence; billions of dollars have been invested; and hundreds of thousands of jobs have been created.

Although the provisions of the Clause have been progressively narrowed over the years so that it is not nearly as pervasive as it was, it remains a cornerstone of our industry.

When first introduced in 1891, the Manufacturing Clause provided that for all practical purposes no one was entitled to U.S. copyright protection unless the material was manufactured in this country. Simply stated, domestic manufacture was established as a condition for granting copyright monopoly in practically all of what was then copyrightable.

In general, the history of the Clause in the past 90 years has been one of continuing erosion, to a small extent by the Copyright Act of 1909, and further by adoption of the U.C.C. and ad interim copyright provisions in 1954, but drastically and dramatically by the 1976 law, all as shown in Table I.

TABLE I.—*Manufacturing clause coverage comparison: 1891 versus today*

1891	Today
Virtually all copyrightable materials	Preponderantly nondramatic literary copyrightable materials.
All languages	English language only.
All authors	U.S. authors domiciled in United States.
Any number of copies	Does not cover first 2,000 copies.
Whole printing process (typesetting, all preliminary steps, platemaking, printing, and binding) in United States.	All typesetting and other preliminary steps to platemaking for lithographic printing may be done abroad.
Printed in United States only	May also be printed in Canada.

As can be seen from this Table, the Manufacturing Clause is far from what is once was. It is still, however, extremely important to the companies, the investors, and the working people whose jobs are keyed to the health and vitality of our industry.

2. Perculiar vulnerability to wage rate differentials.—Printing is a highly labor intensive industry . . . probably the most highly labor intensive of any major manufacturing industry in the United States. This means the wage differentials between us and low wage rate countries such as Hong Kong and Singapore are much more destructive to printing than to most other manufacturing industries.

It has been suggested that the United States should move out of labor intensive manufacturing industries, like printing, and concentrate on high technology industries where high American wage rates can be supported.

This may be very nice economic theory, but it does not make very nice listening for manufacturers and workers and families in the labor intensive industries who are to be sacrificed in the name of long-range economic theory.

3. Only weapon in our trade adjustment arsenal.—The Manufacturing Clause remains the only weapon we in the United States have to deal with many of our international printing trade problems. As a signatory to the Florence Agreement, the United States has removed all duties on "educational, scientific and cultural materials." Because so many printed products fit within this definition, most printed products enter the United States duty free. Unfortunately, a number of other countries, and Canada is a notable example, do not subscribe to so noble a concept. To cite two examples:

a. Canadian tax laws forbid Canadian advertisers from deducting as a business expense the cost of Canadian advertising in non-Canadian publications. Canadian regulations defining what is necessary to qualify as a Canadian publication have become increasingly harsh, forcing at least one major U.S. magazine to cease publishing in Canada.

b. Very high duties are levied on materials manufactured in the United States and shipped into Canada. To cite an example: When my own company several years ago produced a catalog for a leading Canadian publisher, we were confronted with a 25-percent duty. But that was not all. When the Canadian publisher talked to his government, he found that the 25 percent tax applied not only to the work we performed in the United States, but also to Canadian-furnished preliminary work and publisher-furnished paper manufactured in Canada. The effective tax rate on the value added work we did was about 40 percent. We think this is rather high.

Attachment "A" sets forth the background and provisions of the Toronto Agreement which led to the Canadian exemption in the 1976 Amendments to the Copyright Law. This problem was discussed in the House Floor Debates where it was pointed out that the Manufacturing Clause is the only card we have to play in dealing with Canadian printing trade problems.

The final Conference Committee Report states that the Canadian exemption is included with the expectation that Canada will move promptly ". . . to remove high Canadian tariffs on printed matter and . . . other Canadian restraints on the printing and publishing trade between the two countries . . . The Canadian exemption is included in Section 601 with the expectation that these changes will be made. If for any reason Canadian trade groups and the Canadian Government do not move promptly in reciprocation with U.S. trade groups and the United States Government to remove such tariff and other trade barriers, we would expect Congress to remove the Canadian exemption."

As detailed in Attachment "A", Canada has done very little to honor its obligations under the Toronto Agreement. Accordingly, as indicated in the Conference

Report, Congress should now be looking at the question of whether or not to remove the Canadian exemption.

We submit, however, that Congress cannot remove the Canadian exemption if there is no Manufacturing Clause from which to grant exemption. Without the Manufacturing Clause our trade representatives have little if anything to trade with other countries with whom they are to negotiate. As it is today, we are engaged in unilateral disarmament. I find unilateral disarmament unacceptable in trade, as well as in military matters. Unless Congress acts we are on the verge of surrendering a most important trade position with nothing to show in return.

4. Job loss.—The fourth major reason for our request to continue the Manufacturing Clause is our deep conviction that several hundred thousand jobs will be lost to foreign competition who benefit from various kinds of government subsidies and support and extremely low wage rates in a labor intensive industry. Wayne Nordberg will deal with this subject.

In closing I would like to touch on three points: The Copyright Office Position; Free Trade; and the perspective of a large printing company.

1. The Copyright Office position.—I have been involved in this Manufacturing Clause question for about 20 years. For as long as I can remember, the Copyright Office has been troubled by having a trade question wrapped up in the Copyright Law. As a lawyer, and somewhat of a purist, I can understand this concern. But let me say this: With the United States a signatory to the Florence Agreement, the Manufacturing Clause stands as our only safeguard against unfair, discriminatory foreign competition. While I understand the concern of the Copyright Office, I simply am not willing to see the jobs of thousands of American workers sacrificed on the altar of legal purity.

2. Free trade.—It has been suggested by some that, while it is true that the end of the Manufacturing Clause would result in damage to the American printing industry and a significant loss of American jobs, this is a price we must pay if we are to be consistent in our support of the principles of free trade. I disagree, because I do not think this is a genuine free trade issue. Let me explain.

If the question is: Should we allow Spanish shoes, or French wines, or German cars, to be brought into the United States without hindrance, and sold in competition with American goods, that is a free trade issue. In these cases there is no monopoly. Our case, however, poses quite a different question, which is: "Should we allow a book made in, say Hong Kong or Singapore or Taiwan, to be brought into the United States and given a legal monopoly under Federal Law?" After all, that is what a copyright is, a legal monopoly.

I submit that the difference is crucial. To require American manufacture of a product as a condition for granting the privilege of a legal monopoly of the sale of that product in this country in no way conflicts with the general principles of free trade.

3. The perspective of a large printing company.—We at R. R. Donnelley are doing everything we can to maintain the vitality of the U.S. Printing Industry; we are doing everything we can to keep these jobs in the United States. But if the Manufacturing Clause expires, if you force us to export our business, to send jobs overseas, we are prepared to do so. We do not want to export jobs, but if you force us to the wall we are prepared to move. We are large; we are well-staffed; we have the necessary manufacturing and technical resources; and we are well-financed. We can move overseas if you force us to do so.

But most companies in the printing industry are not. It is on this multitude of small businesses that the blow will fall most heavily if the Manufacturing Clause is allowed to expire. Most small businesses will neither be able to compete with Far East plants, nor have the resources to move there. They, and their employees, will bear the consequences in harshest terms.

Gentlemen, when this Committee considered this issue in 1976, the Senate had already voted by a unanimous vote of 87 to 0 to continue the Manufacturing Clause.

This Committee suddenly reversed the Senate position and voted to phase out the Manufacturing Clause. I think it fair to say that in the closing days of that Congress, neither you nor we were adequately prepared to deal with the trade, economic, or job-loss implications of the phase-out. This is why the phase-out was delayed; this is why you and the Joint Conference Committee asked for further evidence. I hope that the material we present to you today will lead you to help us preserve the industry and jobs so important to the lives and well being of thousands of companies and hundreds of thousands of American workers.

Canada and the Toronto Agreement

Background.—In March of 1968 there was signed in Toronto, Canada an agreement that may well be unique in the annals of international trade.

Representatives of publishers, manufacturers and printing unions gathered in Toronto, to examine the conflicting needs of the printing and publishing industries in the two countries. Representatives from the United States included officers of various printing unions, as well as representatives from the Book Manufacturers' Institute, the Printing Industries of America, the American Book Publishers Council, and the American Educational Publishers Institute, the last two being forerunners of the current Association of American Publishers. Canadians represented corresponding unions and printing and publishing associations.

We were faced with conflicting objectives and motivations. On the U.S. side, the manufacturers and unions were reluctant to give Canada an exemption under the Manufacturing Clause. We did, however, recognize the merit of the position advanced by Canadian printers in our Book Manufacturers' meeting. Canadian printers were understandably critical of their inability to bid on U.S. authors' works. U.S. publishers favored an exemption for Canada under the Manufacturing Clause, partly because they wanted to avail themselves of Canadian printing sources, and also because they hoped Canada would join the Florence Agreement and eliminate tariffs on U.S. published books they shipped into Canada. I am not totally familiar with the objectives of our Canadian counterparts but, obviously, Canadian printing unions and printers wanted to be able to bid on U.S. authored works. Further, it seems clear that publishers in Canada hoped to be able to use U.S. printers. And, perhaps, also some publisher-distributors hoped to be able to obtain U.S. published materials without the weight of tariffs imposed as they crossed the border.

The agreement.—The result of all of our deliberations was a truly remarkable agreement. Essentially, the parties agreed to do four things—

1. U.S. representatives agreed to do their utmost to obtain for Canada an exemption under out Manufacturing Clause.
2. Canadian representatives agreed that as soon as the Manufacturing Clause exemption was obtained, they would urge the Canadian government to sign the Florence Agreement, thereby obligating itself to remove all tariffs on educational, scientific and cultural materials. It was specifically noted that acceptance of the Florence Agreement could be accomplished in Canada without an Act of Parliament.
3. The Agreement also spelled out some actions to be taken to oppose the Stockholm protocol and other attempts to weaken international copyright protection under the Berne and Universal Copyright Conventions. I shall not take the time to explain these undertakings since they are not relevant to our subject today . . . except to note that so far as I know, all parties have honored their commitments under this Clause.
4. The final provision of the Toronto Agreement, and certainly one of the most important, states, "It is anticipated that cooperative efforts on, and resolution of, the foregoing issues in a mutually satisfactory manner will lead promptly to definite future cooperation between the United States and Canadian groups on the removal of any remaining barriers to trade between the two countries affecting their printing and publishing industries."

Performance under the Toronto agreement.—When we look at the record to determine how well the parties have carried out their Toronto Agreement obligations, we find that we in the United States have honored our commitments, but the Canadian record is not nearly so satisfactory.

Although Copyright Law revision in the United States was delayed because of cable T.V. and other considerations, we honored our commitments, consistently pushing for a Canadian exemption in the Manufacturing Clause. And, indeed, the new Copyright Bill did contain a Canadian exemption.

Canada has never signed the Florence Agreement. Nor have we seen any action to remove these other tariff barriers as contemplated by the Toronto Agreement. The one thing Canada has done is temporarily to remove duties on books shipped into Canada. It is significant, I think, to note that the Canadian order to eliminate duties on books extends only to July 1, 1982, the date when our Manufacturing Clause is due to end. In the Congressional floor debates that attended consideration of the new Copyright Law, one Congressman (John Anderson) took special care to note that continuation of the Manufacturing Clause and our ability to grant or withhold an exemption for Canada, stands as our only weapon in dealing with Canada on tariff problems. How prophetic his words were. With the Manufacturing Clause now scheduled to end in 1982, the Canadian order is written so that duties on books entering Canada will be reinstated as our Manufacturing Clause ends.

Chairman GIBBONS. Mr. Nordberg, we have an important vote on the floor. I think we better vote. Let me ask the committee members what they would rather do.

Would you rather recess now and come back at one or come back right after this vote and then let's try to complete this?

Perhaps we can mark it up at the same time. What would you rather do?

Mr. Frenzel?

Mr. FRENZEL. We are finishing the Oakar amendment here, which is the last medicare budget vote. This might be a good time for us to take an hour out and see what is happening with the budget considerations on the floor.

We will probably go into a whole new sector after that. I think it is public employees next, but I think now would be a good time to break.

Chairman GIBBONS. Why don't we break for an hour and then come back with the understanding we are going to take the witnesses as I had them here and we will finish this matter up today.

[Whereupon, at 11:55 a.m., the subcommittee recessed, to reconvene at 1 p.m.]

[Mr. Cooper submitted the following:]

STATEMENT OF BENJAMIN Y. COOPER, VICE PRESIDENT, GOVERNMENT AFFAIRS, PRINTING INDUSTRIES OF AMERICA, INC.

Good morning Mr. Chairman and members of the Committee. My name is Benjamin Y. Cooper. I am Vice-President for Government Affairs for the Printing Industries of America, Inc. (PIA). We appreciate the opportunity to comment on H.R. 6198, legislation to retain the Manufacturing Clause of the Copyright Law for an additional four years.

The Printing Industries of America, Inc., is a national federation of regional, state, and city trade associations representing nearly 10,000 printing companies throughout the United States. PIA members manufacture printed products of all types, including books, business forms and magazines; however, the majority of our members are medium to small commercial printers. Our statement today is also made in behalf of the National Association of Printers and Lithographers, a direct member association representing nearly 3,000 commercial printers throughout the country.

The aggregate sales volume of the printing and publishing industry totals approximately 70 billion dollars. Of this figure, the members of PIA and NAPL account for over 75 percent of the sales throughout the United States and employ approximately 350,000 highly-skilled craftsmen. While the printing industry ranks first in the number of individual establishments (over 42,000) among the leading 25 manufacturing industries in the United States and seventh in total dollar volume payroll, it is important to remember that the printing industry is essentially an industry of small businesses. Over 31,000 of all the printing companies in the United States consist of 20 or fewer employees.

The products produced by the industry ranges from matchbook covers to educational textbooks; from greeting cars to weekly news magazines; from sales brochures and catalogs to computer business forms. With the exception of certain periodicals and legally required materials, most of the items produced are not especially time sensitive. In addition, government figures indicate that printed products are within the top ten manufactured items for value added during manufacturing. This would suggest a high degree of labor intensity.

For more than 30 years, the Printing Industries of America has conducted a ratio study of firms in the industry. During last year, over 1,300 firms responded that of the portion of value added during manufacturing, 44 percent was attributable to labor costs.

It is difficult to estimate the amount of material produced which is copyrighted. Overwhelmingly, the affixing of copyright notice and the claiming of copyright protection is within the concern of the printer's customer. There are no records kept by the industry on the amount of copyrighted material produced. The industry can be stratified as follows. There are a small number of large companies producing periodicals, books, catalogs, and commercial items marketed nationwide and worldwide. Secondly, there is a larger number of smaller companies producing generally the same material as the larger companies, but marketed on a regional basis or in specialized markets. Finally, the greatest portion of the industry is composed of smaller companies catering to the local market or participating in specialized markets.

We believe that the elimination of the Manufacturing Clause will immediately affect the larger companies significantly; the second tier companies to a like degree both directly and through a ripple effect as the larger companies move into regional markets to compensate for work lost abroad. Finally, the smallest companies will feel the effect as their brethren struggle to remain competitive. The major effect, however, will be the significant change on the structure of the industry as a result of the phaseout. The larger companies are obviously in the most favorable competitive posture. Their resources will enable them to compete at various levels and in some cases open foreign manufacturing facilities. The smallest companies compete for a highly localized market where close proximity to the customer is very important. We are concerned that the elimination of the Manufacturing Clause will result in an industry comprised of large firms capable of printing a wide variety of material and small commercial shops. The middle size firm, where the major resources of the industry are located, will be squeezed out. Also facing extinction are the various speciality firms such as binderies, typesetting, and book covering firms. Also affected will be the suppliers to these firms.

There is widespread concern throughout industry about trends toward concentration—a limited number of firms providing the largest amount of work. It is in this area that PIA, as the representative for the entire printing industry, is most concerned. A reduction in the amount of book printing done in the United States, means more competition among the remaining companies. Larger, more resourceful companies will take that business. Smaller firms with less competitive latitude will likely cease operations. Will publishers someday come before a committee of Congress complaining about the concentration of printing resources in this country in a few companies?

There is yet another area of concern that has not been addressed. Printing is a growing industry in many parts of the world. Overall, many of these foreign printers have not been able to get a strong toe hold in the U. S. markets. With this issue, however, we may be providing that toe hold. The type of printing directly and immediately affected—book printing—is highly labor intensive. Enabling foreign printers to establish themselves in the U. S. via the labor intensive segments opens the door for the development of substantial competition in other areas.

The historical basis and development of the Manufacturing Clause has been well documented. While we believe the history is significant to this issue, it would be redundant to restate these part events. Suffice it to say that the Manufacturing Clause has been a significant part of U. S. Copyright Law for 91 years and enabled the U. S. to develop significant portions of the printing industry.

The issue we are discussing today is the present and future of that printing industry. As an aid to this discussion, we wish to take this opportunity to discuss the major arguments against the presence of the Manufacturing Clause and offer our reasons why these arguments cannot be allowed to prevail.

The Manufacturing clause is trade law and has no place in the Copyright law.

This argument lacks foundation for two reasons. First of all, the Copyright Law is trade law. Although we do not intend to question the merits protecting works of art and creativity, copyright protection is a restriction of trade. A copyright affords to an author or publisher the exclusive rghts to a work for a substantial period of time. Under current law these rights extend beyond the death of the author.

Secondly, and more significantly for our purposes, the printing industry is left with no option other than the Manufacturing Clause to check the importation of copyrighted material. When the U. S. signed the Florence Agreement, in which the signatories agreed no tariffs or duties would be assessed on cultural or educatonal materials, the ability to check imports other than through the Manufacturing Clause was lost. Consequently, the Manufacturing Clause is by default the printing industry's trade law.

The existence of the clause limits the ability of new authors to be published and limits foreign authors' ability to be published in this country.

While testimony has been given that the Manufacturing Clause limits new authors and foreign authors, these arguments are totally without foundation. The law does not apply to foreign authors nor in fact does it apply to U.S. citizens who have lived abroad for more than a year. Further, the 1976 revisions allow any author who is unable to find a publisher may go abroad and have his or her work printed and imported in unlimited quantities.

The reasons for abolising the Clause which were articulated in 1976 apply with equal force today. No evidence was adduced which demonstrated that conditions favoring abolition had significantly changed since then much less that they had changed enough to warrant revision of the law.

This argument ignores the historical events surrounding the changes in the Manufacturing Clause in 1976 and the significant study conducted by the Labor Department which demonstrated the enormous impact the phaseout of the Clause would have on the printing industry and the U.S. economy as a whole. In the 1976 amendments, agreement had been reached among the parties on all sides that, with certain liberalizations, the Manufacturing Clause would be retained. That agreement was unanimously approved by the Senate. Subsequent to the agreement and the hearings on the matters, the House of Representatives approved the expiration. The time for presenting additional material was lost.

Apparently, evidence was adduced at that time to justify continuation of the Clause on economic grounds. The report of the Senate Judiciary Committee states "On balance it appears that, although there is no justification on principle for a manufacturing requirement in the copyright statute, there may still be some economic justification for it."

It remains a mystery to this organization that the Copyright Office, charged with providing a study into the economic impact of the phaseout of the Manufacturing Clause, discounts the study of the Department of Labor's Bureau of International Labor Affairs completed on June 15, 1981. (Their preliminary findings were available to the Copyright Office.) That report concluded that the "the elimination of the Manufacturing Clause would cause a decrease in demand for American printing and publishing and, after the industry has adjusted, a loss of 78 to 172 thousand job opportunities in the printing industry. This long-run loss of employment opportunities in printing and publishing would be accompanied by a decrease in employment opportunities in firms which supply the printing and publishing industry. The total estimated loss of job opportunities in the U.S. economy is 170 thousand to 367 thousand."

Those findings certainly bring question to the findings of the Copyright Office that "no evidence was adduced."

The expiration of the clause will improve the United States' position in the international copyright community and will give the world notice of our commitment to a reduction in barriers to free trade. It should also permit Canada to consider removing portions of its law which are potential barriers to free trade with the United States.

If the Manufacturing Clause issue is viewed as a moral or philosophical argument, there is no question that the U.S. position in the international copyright community will be improved. We reiterate, however, that this issue is economic, not moral and philosophical. It is possible to be moral and philosophical about international economics only when the domestic situation is not in peril. The significant problems this nation is having with its balance of trade need not be outlined here. The Manufacturing Clause expiration would simply be one more blow to that unfavorable situation.

We ask that we are surrendering and what we gain in return. We assume the Labor Department's analysis of job loss is correct. Therefore, we are surrendering a potential of 367,000 jobs. In return, we gain an improved position in the international copyright community.

There is also an important question whether this country needs to demonstrate further its commitment to free trade. Industry after industry in this country has been wiped out while we practice free trade on one hand, but allow other nations to limit our ability to do business. In printing in general, and books particularly, the United States is the market. Sales of books other than in the English language are typically very short runs. Consequently, U.S. printers have a practical limitation on the amount of work they can provide for authors and publishers abroad. Perhaps we should ask other countries to adopt English as their native language thereby eliminating that non trade barrier.

With regard to Canada, it is worth noting that they wish no change in the Manufacturing Clause. As a matter of fact, they regard any change as a deterioration in the current position. It is inconceivable that a loss of an economic advantage would encourage Canada to remove portions of its law which are potential barriers to free trade with the United States. We believe the best solution to dealing with Canada is to retain the Clause and the exemption.

The expiration of the Manufacturing Clause will end nearly a century of discrimination against one class of copyright owners. No manufacturing requirement exists with respect to works of art, musical compositions, dramatic works, sound recordings, or motion pictures.

This argument is puzzling to us on several counts. First of all, the motion picture industry faced near disaster from overseas production so they sought and received from Congress a generous investment tax credit for domestic production. While I am not competent to speak with authority on the standing of the other materials listed, it is our understanding that there are only a handful of companies in the United States printing musical compositions. Soon there may be none. Further, the items listed are not all subject to the limitations of the Florence Agreement so they are eligible for tariff protection.

Chairman GIBBONS. We will resume.

Mr. Nordberg, I think you are next.

STATEMENT OF E. WAYNE NORDBERG, GENERAL PARTNER, PRESCOTT, BALL & TURBEN, ON BEHALF OF THE BOOK MANUFACTURERS' INSTITUTE, INC.

Mr. NORDBERG. Thank you, Mr. Chairman.

As background for my comments this afternoon, I would like to offer a brief history of my involvement on behalf of the Book Manufacturers Institute.

In 1977, my firm—Prescott, Ball & Turben—was retained by the Book Manufacturers Institute to conduct a survey of the world book manufacturing industry.

The purpose of this study was to develop information on the nature of book manufacturing in various foreign countries and possible production costs.

This data was then to be used as the basis for determining the potential impact on the domestic book manufacturing industry of the ultimate elimination of the manufacturing clause contained in the previous U.S. copyright law.

This study was conducted over a period of approximately 18 months, including two field trips to Europe and the Far East.

This research included numerous conversations with local publishers in the United Kingdom who for many years had been making substantial use of Pacific Basin manufacturers, printing and binding trade associations in major European and Far East countries, and book manufacturers operating in these markets with special emphasis on the giant Japanese firms that dominate through comanufacturing ventures the export book production in that area.

In addition, we held many conversations with representatives of the Australian book manufacturing industry to better understand the history of their loss of market share to those outside producers in Japan, Hong Kong, and Singapore.

Our initial findings as of November 1977 concluded that on the basis of economics, 45 percent of the U.S. market for book manufacturing could be competitively served by foreign producers, given the existing currency parities, wage rates, equipment base, and technology.

Of that 45 percent of potential market loss, the Far East was expected to provide 37 percent of the ultimate production and Europe—mostly Holland—the balance, or 8 percent.

In that initial study we concluded that manufacturing costs in Holland were 13.6 percent lower than the United States, 23 percent lower in Japan, 2.9 percent lower in the United Kingdom, and 37 percent lower in Hong Kong.

Because of the magnitude of this projected potential loss, we felt that we had to dig more deeply into the fundamentals of what we were doing, trying to develop more data and more hard facts to support this conclusion.

Also, if you will recall at that period of time, in 1977, early 1978, the dollar was declining very rapidly in international markets and over that relevant period the dollar did decline about 30 percent.

What we had to do was go back and recalculate our figures based upon the new value of the dollar and come up with what rates were appropriate.

Taking all of those factors into consideration, we then concluded that at the currency parities at that time, about 30 percent of the U.S. market could be served by producers overseas and because of the change in the dollar, particularly vis-a-vis the gilder in Holland, we didn't feel that Europe was a particular threat to the U.S.-based manufacturing industry.

We then began to focus much more carefully on the Pacific Basin. The results of our comparative study of book printing and binding indicated that the United States was only slightly less efficient than Japan in printing and considerably more efficient in binding.

This is as of 1978. Labor costs in Japan and Hong Kong were somewhat comparable to the United States, indicating that at the existing September 1979 currency rates no immediate labor cost advantage would accrue to producers in those countries.

However, our focus increasingly moved to the typical way the Japanese do business. That is by taking advantage of lower labor costs in other emerging economies in the Pacific Basin.

So we looked carefully at Singapore, South Korea, Taiwan, and Indonesia. There we saw the potential where wage rates are a fraction of those in Japan and for a substantial loss of market share to those economies. Again I say, based upon the above and the actual pricing of three different books—in this part of the study what we did was take three standard books that were specified by publishers and we priced those books in the United States, in Japan, in Hong Kong, and in Singapore as a proxy for a low labor cost area—and in the study that has been presented to you we did give the actual figures.

It did show there was a cost advantage to producing, particularly in those low labor countries—Singapore, South Korea, Taiwan, and Indonesia.

From those figures we basically reached our conclusion that 30 percent of the market could competitively be served.

Our projection of probable book manfacturing volume services by Pacific Basin producers was strongly influenced by the following factors, some of which do not lend themselves to qualitative analysis.

In summary, Pacific Basin producers are large, fully integrated, professionally managed international companies with a long history of vigorous export competition. Contrast that with the United

States where, except for the two or three large companies, our industry is dominated by small businesses, by small companies that have a regional influence, and it is much more typified by the Mom and Pop kind of printing establishment.

This is very much the norm in the United States; whereas in these Pacific Basin economies, companies like Dai Nippon and Toipon are really dominant.

Dai Nippon—the largest company in that area—is larger than the largest three U.S. companies combined.

Their research and development budget is larger than the entire research and development budget for the entire U.S. industry. This will give you some background of the competitive forces we are talking about here.

Also, these companies have a well-established pattern of comanufacturing, led by the Japanese companies, taking advantage of these low labor costs.

Host countries also enthusiastically embrace this type of economic partnership with considerable tax incentives for plant and equipment, investment, and employee training and skills.

I would like to introduce something we received just recently. It is an article from the Straits Times in Singapore.

The headline of the article is "Good Times Ahead for Local Printers."

I quote:

> An immiment relaxation in America's copyright laws is promising brighter days ahead for Singapore printers.
>
> A provision in the new law says that from July 1, 1982, books by American authors printed and bound anywhere in the world will still be eligible for copyright protection within the U.S.
>
> This will give Singapore printers a good opportunity to expand into the U.S. market.
>
> In effect, this means that 'about 45 percent of the U.S. printing market will be vulnerable to foreign competition,' said the latest issue of the Mirror, a Ministry of Culture publication.
>
> And against this backdrop, the 140 percent jump in Singapore's domestic exports of books and magazines to the U.S. to $9.8 million worth in 1980 is highly significant even though the U.S. shares only 11 percent of Singapore's export market.
>
> For one thing, this indicates that Singapore's reputation as an attractive printing center has spread from Asia to the U.S.
>
> Trade missions and participation in international printing exhibitions such as the 'Face to Face Exhibition' held in New York in November enabled printers to meet foreign publishers and tap the American market.
>
> The government itself offers attractive incentives for the upgrading of the industry. These include the Economic Development Board's Small Industries Finance Scheme and the Skills Development Fund Interest Grant for Mechanization Scheme.

This I think gives you a good idea of how some of these countries operate where there is a strong partnership between industry and government objectives in the export markets.

No. 2, higher labor cost areas such as Japan and Hong Kong cannot be totally discounted as competitors solely on the basis of labor costs.

The reason for this is that they both have a history of marginal cost pricing for products seeking to compete in export markets.

They also have embarked on major modernization programs with special emphasis on bindings that could reduce their costs substantially.

Japan in particular uses elaborate subsidy programs to promote exports even when economic justification is marginal. This is because of Japan's staggering need to generate foreign currency to pay for its imports of raw materials that are then upgraded to the exports that then flood other markets.

In projecting probable market share loss to Pacific Basin producers, it is meaningful to observe the experience of the Australian book manufacturers between 1967 and 1977.

That is a period when importation of books into their country was unrestricted. Local manufacturers saw their share of this market for hard-bound books drop from 81 percent in 1967 to 19 percent in 1974.

Even after the imposition by the government of a "Book Bounty" to try to stem the tide of these imports, as a substitute for tariffs, their market share remained well below the 1967 level, although it did increase back to about a 40-percent share.

During this period the number of books produced in Hong Kong, Singapore, and Japan for export into Australia increased from approximately $5 million worth to $18 million in that 7-year period.

This indicates that once a market is successfully penetrated by outside producers, it becomes virtually impossible to dislodge them even though the inequity of the act is recognized by government authorities who then attempt to redress that inequity.

This experience is particularly relevant to the current case of the manufacturing clause because, as has been stated here before, the book manufacturers lack recourse to the normal tariff and antidumping provisions of the General Agreement on Trade and Tariffs. It is therefore the conclusion of my study that once Pacific Basin producers—due to the scheduled lapse of the manufacturing clause law—gain a share of the book market, it will be impossible to dislodge them, even if, at a later date, the Government decides to do so.

These firms—already giant in comparison to the average U.S. book manufacturer—will not only have the advantage of lower labor costs by virtue of company manufacturing, but importantly, economies of scale, marketing, finance, and equipment acquisition.

A shrinking U.S. industry will be experiencing deteriorating economies of scale and profits that will impair their ability to project forward their outstanding past performance in labor productivity.

Elimination of the manufacturing clause will set in motion financial trends that will weaken the ability of U.S. companies to continue their past aggressive upgrading of capital equipment while currently strengthening that same ability to foreign competitors.

After the elimination of the manufacturing clause, we are to add to Pacific Basin producers lower labor costs, then the competitive ability to achieve a faster rate of equipment modernization, a major loss of U.S. market share in book manufacturing is unavoidable.

We conducted this study several years ago but have continued to update it. As I indicated earlier, currency parities are very important in determining the balance of trade. In the last 6 months, the dollar has strengthened by about 20 percent, so the dollar's value is back to really where it was when we did our original study in 1977, vis-a-vis the Japanese yen, the Hong Kong dollar, and the Singapore currencies.

So, as a result, where our revised study showed Japan would not have a significant advantage, at the current parity of the yen to the dollar, Japan would actually have about a 20-percent cost advantage in the production of books for importation into the United States.

The parity level of the yen to the dollar has gone from about 200 to 1, to 240 to 1. At that level, Japan would have regained all of the advantages that were envisioned in our original study.

So, we think that at this point, given that parity, this would suggest a range of market loss of from 30 percent to 45 percent given the level of the yen and the dollar at any given point in time.

This really covers the basic economic information that we uncovered through our actual field trips and subsequent analysis and updating. I will be happy to try to answer any questions that any of you might have.

[The prepared statement follows:]

STATEMENT OF E. WAYNE NORDBERG, GENERAL PARTNER, PRESCOTT, BALL & TURBEN

BACKGROUND

In offering testimony on the issue of the Manufacturing Clause, I propose to specifically address the pertinent questions posed in the Notice of Public Hearing issued by the Copyright Office of the Library of Congress.

As background for my comments, I would like to offer a history of my involvement on behalf of the Book Manufacturers' Institute. In 1977, Prescott, Ball & Turben was retained by the Book Manufacturers' Institute to conduct a survey of the world book manufacturing industry. The purpose of this study was to develop information on the nature of book manufacturing in various foreign countries and possible production costs. This data was then to be used as a basis for determining the potential impact on the domestic book manufacturing industry of the ultimate elimination of the manufacturing clause contained in previous U.S. copyright law.

The study was conducted over a period of approximately eighteen months including two field trips to Europe and the Far East. This research included numerous conversations with local publishers in the U.K. making substantial use of Pacific Basin manufacturers, printing and binding trade associations in major European and Far East countries and book manufacturers operating in these markets with special emphasis on the giant Japanese firms that dominate, through co-manufacturing ventures, the export book markets in that area. In addition, many conversations have been held with representatives of the Australian book manufacturing industry to better understand the history of their loss of market share to outside producers, i.e. Japan, Hong Kong and Singapore.

INITIAL CONCLUSIONS

Our initial findings (November, 1977) concluded that 45 percent of the U.S. market for book manufacturing could be competitively served by foreign producers given existing currency parities, wage rates, equipment base and technology. The Far East was expected to provide 37 percent and Europe (mostly Holland) the balance.

TABLE 1.—*Comparative costs of book manufacturing, 1977*

	Percent [1]
Holland	−13.6
Japan	−23.4
United Kingdom	−2.9
Hong Kong	−37.1

[1] Percent difference from U.S. manufacturer's cost.

After further study, including the actual pricing in key Far Eastern markets of specific categories of books, it was concluded that potential exposure could be 30 percent of the U.S. market. The principal difference between November 1977 and July 1978 was the value of the dollar, where a 30 percent decline has negated some of the cost advantages previously enjoyed by Japan.

The results of our comparative study of book printing and binding indicated that the United States was only slightly less efficient than Japan in printing and considerably more efficient in binding. Labor costs in Japan and Hong Kong were more comparable to the United States, indicating that, at existing (September 1979) currency rates, no immediate labor cost advantage would accrue immediately to these producers upon elimination of the manufacturing clause.

TABLE 2.—COMPARATIVE LABOR COSTS, FEBRUARY 1978

[Manual lineup, Crabtree sheet fed, Dexter folder]

	Labor cost per unit		
	Book 1	Book 2	Book 3
United States	$0.137	$0.385	$0.127
Japan	.142	.399	.132
Singapore	.021	.059	.019

The labor cost differential, when using web offset, is not as exaggerated, though the magnitude of difference between the United States and the Singapore remains approximately the same. We received one imput from a U.S. printer, for a Cameron belt press, but we failed to receive any from Japan. There is only one printer in Japan with a Cameron, Burni of Tokyo. There are no others in the entire Far East.

Based on the above, we believe that 30 percent, or 360 million, of the U.S. book market (See report on same dated February, 1978) could be lost to the developing countries in the Far East, only with a substantial injection of capital and foreign technology. We do not believe that it is unlikely.

Our projection of probable book manufacturing volume serviced by Pacific Basin producers was strongly influenced by the following factors, some of which do not lend themselves to quantitative analysis. In summary:

1. Pacific Basin producers are large, fully integrated, professionally managed international entities with a long history of vigorous export competition. The pattern of co-manufacturing by leading Japanese and Hong Kong companies in low labor cost areas such as Indonesia, South Korea and Taiwan is well established. Host countries enthusiastically embrace this type of economic partnership with considerable tax incentives for plant and equipment investment and employee training and skill development.

2. High Labor cost areas such as Japan and Hong Kong cannot be totally discounted as competitors solely on the basis of our cost estimates for two reasons:

(a) They have a history of marginal cost pricing for products seeking to compete in export markets.

(b) They have embarked on major modernizaton programs with special emphasis on binding that could reduce their costs.

(c). Japan, in particular, uses elaborate subsidy programs to promote exports even when economic justification is marginal. This is because of Japan's staggering need to generate foreign currency to pay for imports.

In projecting probable market share loss to Pacific Basin producers, it is meaningful to observe the experience of Australian book manufacturers during the 1967-77 period when the importation of books in their country was unrestricted. Local manufacturers saw their share of market for hard bound books, drop from 81 percent in 1967 to 19 percent in 1974.

TABLE 2.—AUSTRALIAN PUBLISHED BOOKS PRINTED IN AUSTRALIA

[In percent]

	1967	1971	1974	1975	1976
New Books					
Hardbound	81	39	19	27	45
Other than hardbound	71	36	46	43	41
Reprints:					
Hardbound	80	54	7	22	47

TABLE 2.—AUSTRALIAN PUBLISHED BOOKS PRINTED IN AUSTRALIA—Continued

[In percent]

	1967	1971	1974	1975	1976
Other than hardbound	78	56	43	33	39

Even after the imposition of the "book bounty" as a substitute for actual tariff or quota protection, market share remained well below the 1967 level.

TABLE 4.—IMPORTS FROM SOUTH EAST ASIA

[In millions of dollars]

	Paperbound			Hardbound			Total
	Hong Kong	Singapore	Japan	Hong Kong	Singapore	Japan	
1970-71	959	351	416	2,053	548	853	5,180
1971-72	954	497	332	2,591	771	1,371	6,516
1972-73	1,235	481	759	3,612	1,086	857	8,030
1973-74	1,182	917	785	4,673	2,047	669	10,273
1974-75	1,548	891	712	5,134	2,060	1,222	11,567
1975-76	1,588	1,124	660	5,522	1,834	2,056	12,784
1976-77 [1]	2,580	1,532	584	7,918	2,725	3,269	18,608

[1] Note.—Based on 10 mo. imports.

In the above table we can see that imports increased 80 percent between 1973-74 and 1976-77. This indicates that once a market is successfully penetrated by outside producers it becomes virtually impossible to dislodge them, even though the inequity of the act is recognized by government authorities who then attempt to redress the inequity.

This experience is particularly relevant to the current case of the Manufacturing Clause because the book manufacturers lack recourse to the normal tariff and anti-dumping provision of the General Agreement on trade and tariffs. It is the conclusion of my study that once Pacific Basin producers, through the scheduled lapse of the Manufacturing Clause, gain a significant share of the U.S. book market, it will be impossible to dislodge them even if at a later date government should decide to do so.

These firms, already giant in comparison to the average U.S. book manufacturer, will have not only the advantage of lower labor costs by virtue of co-manufacturing, but important economies of scale in marketing, finance and equipment acquisition. A shrinking U.S. industry will be experiencing deteriorating economies of scale and profits that will impair their ability to project forward their outstanding past performance in labor productivity. Elimination of the Manufacturing Clause will set in motion financial trends that will weaken the ability of U.S. companies to continue their past agressive upgrading of capital equipment while concurrently strengthening that same ability of foreign competitors. If, through elimination of the Manufacturing Clause, we are to add to Pacific Basin producers lower labor costs, the competitive ability to achieve a faster rate of equipment modernization, a major loss of U.S. market share in book manufacturing is unavoidable. Yet, that is just the set of unfair competitive forces, elimination of the Manufacturing Clause implies.

ADJUSTMENTS TO ORIGINAL CONCLUSIONS

In our original study, we developed an analytical format that would permit us to adjust estimates of financial impact for charges in currency parities, wage rates and paper costs. We have recently recalculated projected costs on three standard books based on existing costs and parities.

TABLE 5.—COMPARATIVE CASH COSTS OF SPECIFIC BOOK RUNS FOB AT PLANT, JANUARY 1981

[Dollars per unit]

	Paper	Labor	Supplies	Total (ex-plant)
Book I:				
United States	$0.42	$0.16	$0.40	$0.96
Japan	.60	.18	.28	1.06
Singapore	.53	.04	.30	.87
Book II:				
United States	.63	.43	.68	1.74
Japan	.90	.45	.48	1.83
Singapore	.80	9.12	.51	1.43
Book III:				
United States	.23	.14	.32	.69
Japan	.33	.14	.22	.69
Singapore	.29	.03	.24	.56

Note.—Exchange rate, Yen, Feb. 12, 1978, 0.4170; Jan. 7, 1981, 0.5011.

Source: Prescott Ball & Turben.

From Table 5, we can see that in terms of cash costs, production in the United States is cheaper than in Japan but more expensive than Singapore, the proxy for other low labor cost areas. These latest figures correspond closely to those in our final study submitted to the BMI in July of 1978. Since that time strength in the dollar, a negative for U.S. book manufacturers, has been offset by a more rapid increase in paper prices overseas.

TABLE 6.—PAPER PRICE INCREASES SINCE FEBRUARY 1978

[No. 3. offset paper per ton]

	February 1978	January 1981
United States	$550	$825
United Kingdom	650	1,100
Japan	650	1,200
Hong Kong	615	1,050

Paper cost per pound (January 1981)

United States	$.042
Japan	.60
Hong Kong/Singapore	.53

Based on these updated figures, I consider our final estimate of initial loss of market share, 30 percent, to be a realistic expectation if the Manufacturing Clause should cease to exist. Furthermore, as this penetration adversely impacts the ability of smaller U.S. producers to continue their excellent past record in modernization, two things will happen:

1. More of the U.S. book manufacturing market will be served by fewer dominant firms.
2. The share of U.S. book demand met by foreign producers will move above the 30 percent projected in this study.

I do not believe it is in the best interest of the United States to, through government intervention, encourage either further consolidation among domestic producers or rapid penetration of our markets by foreign producers. Yet, this is exactly the force that will be unavoidably unleashed should the Manufacturing Clause be eliminated.

SPECIFIC QUESTIONS

Question 1. If the "manufacturing clause" were to be phased out, the following types of book would be susceptible to foreign production:

TABLE 7.—TYPES OF BOOKS VULNERABLE TO IMPORTS

Type	Market size (million units)	Principle exporting region	Potential import market share (percent)	Units (million)
Trade-hard	105	Far East	20	21
Subscription reference	1	Western Europe	100	1
Professional:				
Hard	40	......do	100	40
Soft	34	Far East	100	34
Mass market PB	390	......do	100	390
College hard	43	Western Europe	100	43
Total vulnerable market	613	......do		84
		Far East		445
Total market	1,200		45	

The above was estimated in February 1978, based on the manufacturing costs and foreign exchange rates.

The critical factor in determining the vulnerability of a specific type of book to foreign production is cost. All of the categories listed above can be competitively produced overseas. Certain books have time constraints that dictate turn-around time and shipping. The trade-book area is the most sensitive to turn-around time because of time value associated with best seller availability. We have conservatively estimated a potential 20 percent loss of market due to the importance of product availability with short notice. After interviewing several British trade publishers, we are less convinced that turn-around time will be a major constraint for the Pacific Basin producers. They are consistently meeting six week turn-around requirements for British publishers from Hong Kong and Singapore.

Question 2. If the "manufacturing clause" were to be phased out, best seller trade books and el-hi text books are likely to be the least susceptible to foreign production. Political considerations are paramount in our conclusion that el-hi text books will mostly be produced in the United States. Best seller trade books that require quick turn-around for reprints would generally not be risked to foreign production.

Question 4. European and Pacific Basin book manufacturers possess all the technical skills required to produce books of equal or superior quality to U.S. manufactured books. Turnaround time for British books produced in Hong Kong is six weeks. Paper is available in all foreign markets of equivalent quality to U.S. grades. Paper costs are considerably higher overseas, a factor that has been taken into consideration in our estimates of relative costs.

Question 5. The U.S. book manufacturing industry is labor intensive, with about 43 percent of sales accruing to labor in the form of wages and fringe benefits. The U.S. industry has done an excellent job in the past of achieving major productivity gains through modernization and utilization of new technology. As is shown in Tables 8, 9, labor costs have actually declined as a percent of sales since 1972 even though wages have grown faster that all U.S. manufacturing and average wages in book production start well above the U.S. industry average.

From Page 20 of the Appendix III, we can see that these productivity gains were passed on to the publishing industry in the form of lower prices than might have prevailed under highly inflationary condition. Productivity increases achieved by book manufacturers did not result in lower book prices to consumers. We do not believe that cost savings projected from foreign book production will lead to lower consumer book prices either.

TABLE 8.—BOOK PRINTING: TRENDS AND PROJECTIONS 1973–79

[Dollars in millions]

	1973	1974	1975	1976	1977	1978	Percent change 1977–78	1979	Percent change 1978–79
Value of shipments	$1,064	$1,127	$1,241	$1,328	$1,435	$1,585	+10	$1,725	+9
Value added	$677	$698	$759	$809	$875	$965	+10		

TABLE 8.—BOOK PRINTING: TRENDS AND PROJECTIONS 1973–79—Continued

[Dollars in millions]

	1973	1974	1975	1976	1977	1978	Percent change 1977–78	1979	Percent change 1978–79
Value added per production worker—hour (dollars)	$10.11	$10.92	$11.80	$12.76	$13.70	$15.20	+11		
Percentage change value added per production worker—hour		+8.0	+8.0	+8.0	+7.5	+11.0			
Production workers (thousands)	34.4	32.9	34.5	33.3	34.0	36.0	+6		
Annual hourly earnings (dollars)	$4.30	$4.92	$5.12	$5.39	$5.75	$6.15	+7		

Source: Frost & Sullivan Statistics.

TABLE 9.—LABOR EFFICIENCY AND PRODUCTIVITY

[BMI statistics]

	1972	1973	1974	1975	1976	1977	1978	1979
Production employees (thousands)				9,993	10,362	10,962		
Sales/employees	27,559	30,748	34,552	35,857	38,226	41,510		
Percentage change		+12.0	+9.0	+4.0	+6.5	+8.5		
Payroll/fringe as percentage of sales	44.3	41.7	40.0	41.6	42.1	42.9		
New series						46.9	45.2	43.2

TABLE 10.—U.S. AVERAGE HOURLY PRINTING UNION WAGE RATES COMPARED TO AVERAGE HOURLY EARNINGS IN THE MANUFACTURING INDUSTRY, SELECTED YEARS, 1960–77

[Frost & Sullivan statistics]

Year	Hourly printing union wage rates [1]	Hourly earnings manufacturing industry [2]
1960	$3.08	$2.26
1965	3.58	2.61
1968	4.00	NA
1969	4.27	NA
1970	4.65	3.36
1971	5.11	3.57
1972	5.49	3.81
1973	5.91	4.07
1974	6.34	4.41
1975	6.86	4.81
1976	7.41	5.91
1977	7.91	5.52

[1] Percent increase 1960–77, 156.8.

[2] Percent increase 1960–77, 144.2.

APPENDIX I

BOOK 1

Trim size: 5¼" x 8¼" (133.4mm x 209.6mm), 10,000 each.
Number of pages: 256.
Presswork: Printed one-color throughout.
Paper: Regular offset, basis 25 x 38—50# (74 g.s.m.).
Binding style: Adhesive, softbound.
NASTA class: Not applicable.
Covers: Furnished, printed softcovers; regular cloth for casebound.
Market: Trade.

	Casebound	Softbound
Labor and man-hours:		
Line up	3.8	3.8
Platemaking	.59	.59
Press	31.99	31.99
Bindery	124.00	69.25
Material:		
Paper	2,378.00	2,378.00
Cover material	1,104.00	....
Plate	34.00	34.00
Bindery board	406.50	....

BOOK 2

Trim size: 6" × 9" (152.4mm × 228.6) 25,000.
Number of pages: 372.
Presswork: Printed one-color (type only) throughout.
Paper: Coated #3, basis 25 × 38—50# (74 g.s.m.).
Binding style: Adhesive, casebound.
Nasta Class: Not applicable.
Covers: Printed two-color and varnished.
Market: College textbook.

	Man-hours
Labor:	
Line up	15.40
Platemaking	2.89
Press	110.78
Bindery	358.00
Material:	
Paper	10,920.00
Cover material	3,670.00
Plate	51.00
Bindery board	1,746.25

BOOK 3

Trim size: 6" × 9" (152.4mm × 228.6mm) 10,000.
Number of pages: 432.
Presswork: Printed one-color throughout.
Paper: Regular offset, basis 25 × 38—45# (67 g.s.m.).
Binding style: Adhesive, softbound.
NASTA class: Not applicable.
Covers: Furnished, printed.
Market: Trade.

	Man-hours
Labor:	
Line up	13.30
Platemaking	1.04
Press	55.79
Bindery	103.50
Material:	
Paper	4,894.00
Cover material	....
Plate	59.50
Bindery board	....

APPENDIX II

Labor cost increases:

U.S.—No significant changes in machinery configuration. Hourly earnings in Printing/Publishing increased from $6.51/hr in 78 to $7.74/hr. or 11.4 percent, at the end of 1980.

Japan.—In the 1976-1980 period Japan installed approximately $50 million worth of bookbinding equipment. Approximately 3,500 old units were scrapped and some 4,000 new units were installed. We obtained new labor costs from Japanese sources instead of updating old labor costs.

Hong Kong/Singapore.—No significant change in machinery configuration.

Chairman **Gibbons**. Thank you.

Mr. Bailey?

Mr. **Bailey**. One question.

I know the Chairman has been so good about the time. We have to cut back on some of these things. I will try to cut my time back, if you folks can help.

The last paragraph of the Straits Times article you quoted from Singapore, December 2, 1981, I will reread, "The government itself offers"—and I assume this is the Government of Singapore?

Mr. **Nordberg**. Yes.

Mr. **Bailey** [continuing]. "Itself offers attractive incentives for the upgrading of the industry. These include the Economic Development Board's Small Industries Finance Scheme and the Skills Development Fund Interest Grant for Mechanization Scheme."

In the early part of the article, this quote here:

> In effect, this means that "about 45 percent of the U.S. printing market will be vulnerable to foreign competition," said the latest issue of the Mirror, a Ministry of Culture publication.

If you have the answer, try to make it brief. If you don't, would you get it for me, please? What do the Europeans do for their printing industry; do you know? The people that have been complaining to Mr. Harrison and others so vociferously about this terrible hypocrisy of ours?

Mr. **Nordberg**. In our two trips to Europe in 1977 and 1978, we looked very carefully at the European industry. There is very little direct cooperation between the government or the printing companies or the unions.

We did find in Holland a very well-organized group of trade associations in printing and binding that were very aggressive in their pursuit of new technology, training of their people; and that is why we felt if there was a threat from Europe, it was from Holland.

We do not view Europe as a threat to U.S. book manufacturers.

Mr. **Bailey**. That is exactly what I suspected. Would you tell me why they are doing all this complaining? We heard from three or four administration witnesses. Is it actual? Is it true? Are they doing that? Are they complaining that much?

Mr. **Nordberg**. In my professional judgment, having looked very carefully at the structure of these industries, where they basically are quite inefficient and—in fact, the only area where the United States has been successful in exporting books that are manufactured here but published somewhere else is into Europe, particularly into the United Kingdom.

We do have a significant amount of production going into Europe. There is no case of books being manufactured in the United States that are published in the Far East and then shipped to the Far East.

Mr. **Bailey**. Lastly, some quick figures. Who reads what around the world? Where is the market? It wouldn't happen to be the United States, would it?

Mr. **Nordberg**. The United States is the largest market, by far.

Mr. **Bailey**. Really?

Mr. **Nordberg**. By far.

Another point that I think requires clarification from a statement the chairman was concerned about on previous questioning relating to the 600 million books exported from the United States.

These are not books, Mr. Chairman, that are published overseas and that our manufacturers produce. Most of these books are books that are available only from the U.S. publishers.

There is not an option of purchasing these highly scientific or technical books anywhere else in the world. So, I don't think it is proper to imply that if the clause is left in, that there is going to be retaliation against these books, because it is the only place you can obtain them.

I think what you probably felt was these were books published overseas but manufactured here because we have an advantage to do that. We don't have that advantage. There is no history of the United States producing books that are published in the Far East and then shipping them to the Far East. Quite the contrary.

Mr. **Bailey**. I thank you.

Mr. **Prine**. May I add a quick clarification? The impression was created the Europeans are kind of like Caesar's wife. That is not so. They have tariffs of their own, I think, basically on noneducational, scientific, and cultural. We are trying to sell in there. We are running into tariff walls in Europe.

Mr. **Bailey**. I just wanted to finish up castigating you gentlemen—I wish Mr. Harrison was here—for not lobbying me. Until this morning, I hadn't even seen you people. I think it is just terrible that you are not descending on us like you are supposed to.

Chairman **Gibbons**. Thank you.

We will next hear from Mr. Stephen Koplan, legislative representative, AFL-CIO.

STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ACCOMPANIED BY ELIZABETH JAGER, ECONOMIST

Mr. **Koplan**. With me is Elizabeth Jager, our trade economist.

I will not read my full statement. I will summarize it. I ask that the full text of my statement be included in the record.

Chairman **Gibbons**. It will be.

Mr. **Koplan**. Mr. Chairman, the AFL-CIO appreciates this opportunity to present its views in support of preserving the existing manufacturing requirements of the U.S. Copyright Law.

Unless the Congress acts promptly, these requirements will expire on July 1. If that is allowed to happen, the result could be the loss of hundreds of thousands of American jobs in the printing and book manufacturing industry.

This Nation is now gripped by a recession that has caused the unemployment of about 10 million American workers. Faced with this tragic situation, the Congress can ill-afford to watch from the sidelines while a law expires that historically has been the only safeguard against substantial job erosion in yet another U.S. industry.

Unless the Congress intervenes, devastating loss of job opportunities will result, not only in the printing and publishing industry, but in related industries such as those that supply paper and ink, as well.

The ripple effect of such job losses will be felt throughout our economy.

At present, the manufacturing clause generally requires that nondramatic literary works, chiefly books and periodicals, written in English by Americans and domiciliaries of the United States, be printed and bound in the United States or Canada if they are to enjoy complete copyright protection in this country. We note that the clause has been in effect in varying forms since 1891. We urge that this subcommittee act now to preserve its requirements.

At its August 5, 1981, meeting in Chicago, Ill., the AFL-CIO executive council urged the Congress to "permanently retain the manufacturing clause as a part of the copyright law."

The full text of that statement is attached to mine.

In November of 1981, the delegates to the AFL-CIO 14th Constitutional Convention, as part of the policy resolution adopted on International Trade and Investment, called for extension of the clause to protect against "widespread losses of jobs throughout the U.S. printing industry."

Most recently, in February of 1982, the AFL-CIO executive council issued a trade statement that included a call upon the President and the Congress to preserve the clause in the U.S. copyright law.

We note that preservation of the manufacturing clause has broad bipartisan support in the Congress. Mr. Bailey brought out this morning that on May 18, the Judiciary Committee, by vote of 22 to 0 ordered favorably reported H.R. 6198, a proposal to extend the clause for an additional 4 years.

I would like to stop for a moment and point out, as I am sure the Chair is aware, that this 4-year extension is simply a compromise. What we started with in this Congress were bills in the House and Senate that would make permanent the requirements of the clause.

In the House of Representatives, H.R. 3940, introduced by the late Mr. Ashbrook, which has in the neighborhood of 100 cosponsors, almost evenly divided between Democrats and Republicans; and in the Senate, the bill is S. 1880, introduced on November 20, 1981, by Senator Thurmond.

At that time, S. 1880 was cosponsored by Senator Specter and Senator Laxalt. That bill now has another 13 cosponsors. Similarly, its cosponsors are just about equally divided between Republicans and Democrats.

In other words, there is substantial bipartisan support in both the House and the Senate to make this clause permanent.

What happened in the House Judiciary Committee is that a compromise was struck. What came out of the House Judiciary Committee unanimously was a simple, flat, 4-year extension.

Our position is that at the least, it is a 4-year extension that should be acted upon by this subcommittee without amendments that would dilute it.

In that regard, we regret that the administration has seen fit to play the charade of agreeing to an extension of the manufacturing clause while urging the Congress to pass the buck in an election year by delegating—and I am quoting from the March 4 testimony to the House Judiciary Committee—"to the executive branch the authority to terminate the clause upon a determination that it is in the national economic interest to do so."

We know full well that if the Congress delegates such authority to the administration, the end result will be termination of the clause, accompanied by devastating numbers of jobs lost to American workers.

For example, on June 15, 1981, the U.S. Department of Labor issued a study entitled: "The Employment Effects of Eliminating the Manufacturing Clause of the U.S. Copyright Law." Much has been said about this study. I would like to read into the record the one paragraph that has been the subject of much discussion this morning.

I am quoting directly from that study.

> The expiration of the manufacturing clause could cause a direct long-run loss of 78 to 172,000 employment opportunities in the printing and publishing industry according to a sector-by-sector analysis of this industry.
>
> These figures represent from 6.2 percent to 13.9 percent of 1979 industry employment presented in Table 1. This direct employment impact caused by a loss of sales to retailers when added to the indirect employment impact upon industries—for example, paper mills and advertising supplying SIC, Standard Industrial Classification 27—results in an estimated long run total loss of 170 to 367,000 jobs opportunities in the U.S. economy.

When balanced against the proven miseries of a U.S. unemployment figure that is rapidly nearing 10 percent, the administration's request for a blank check from the Congress to terminate the manufacturing clause must be rejected.

Mr. Chairman, we urge that the Congress not take the drastic and unwarranted step of delegating to this administration or, for that matter, to any future administration the power to terminate the manufacturing clause.

To our knowledge, such authority has not been delegated to the executive branch at any time since the clause was enacted in 1891. Certainly this is not the time for the Congress to take a chance on a possible swift reversal of a policy that has survived for over 90 years.

We urge the Congress to maintain its oversight responsibility over the copyright system by favorably reporting H.R. 6198, to provide for a 4-year extension of the manufacturing requirements of U.S. copyright law.

[The prepared statement follows:]

STATEMENT OF STEPHEN KOPLAN, LEGISLATIVE REPRESENTATIVE, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL-CIO appreciates this opportunity to present its views in support of preserving the existing manufacturing requirements of the U.S. copyright law. Unless the Congress acts promptly, those requirements will expire on July 1st. If that is allowed to happen, the result could be the loss of hundreds of thousands of American jobs in the printing and book manufacturing industry.

This nation is now gripped by a recession that has caused the unemployment of about 10 million American workers. Faced with this tragic situation, the Congress can ill afford to watch from the sidelines while a law expires that historically has been the only safeguard against substantial job erosion in yet another U.S. industry. Unless the Congress intervenes, devastating loss of job opportunities will result not only in the printing and publishing industry but in related industries such as those that supply paper and ink, as well. The ripple effect of such job losses will be felt throughout our economy.

At present, the manufacturing clause generally requires that non-dramatic literary works, chiefly books and periodicals, written in English by Americans and domiciliaries of the United States, be printed and bound in the United States or Canada if they are to enjoy complete copyright protection in this country. We note that the clause has been in effect in varying forms since 1891. We urge that this subcommittee act now to preserve its requirements.

At its August 5, 1981, meeting in Chicago, Illinois, the AFL-CIO Executive Council urged the Congress to "permanently retain the manufacturing clause as a part of the Copyright Law." In its statement, the Council pointed out that:

"The present manufacturing clause does not prevent the free flow of cultural information. Books authored by foriegn nationals, either in their native language or in English translation, manufactured outside the United States, may be imported into the United States duty free. Also, American authors who are unable to find an American publisher may have their work printed overseas and brought into this country without manufacturing restraint.

"Removal of the manufacturing clause from the Copyright Act will not produce any tangible benefits for the American consumer. The manufacturing clause is a vital defense against wholesale destruction of the U.S. industry. It should be preserved." (Full text of statement attached.)

In November of 1981, the delegates to the AFL-CIO Fourteenth Constitutional Convention, as part of the Policy Resolution adopted on International Trade and Investment, called for extension of the clause to protect against "widespread losses of jobs throughout the U.S. printing industry." Most recently, in February of 1982, the AFL-CIO Executive Council issued a trade statement that included a call upon the President and the Congress to preserve the clause in the U.S. Copyright Law.

We note that preservation of the manufacturing clause has broad bipartisan support in the Congress. For example, on May 18th the Judiciary Committee by vote of 22-0 ordered favorably reported H.R. 6198, a proposal to extend the clause for an additional four years. At the least, we urge this subcommittee to favorably report H.R. 6198 to the full Ways and Means Committee. The Congressional Budget Office has already reviewed this proposal and announced that it "would have no budget impact."

We regret that the Administration has seen fit to play the charade of agreeing to an extension of the manufacturing clause while urging the Congress to pass the buck in an election year by delegating "to the Executive Branch the authority to terminate the clause upon a determination that it is in the national economic interest to do so." We know full well that if the Congress delegates such authority to the Administration, the end result will be termination of the clause, accompanied by devastating numbers of jobs lost to American workers.

For example, on June 15, 1981, the U.S. Department of Labor issued a study entitled: "The Employment Effects of Eliminating the Manufacturing Clause of the U.S. Copyright Law." The Executive Summary of that study stated in pertinent part:

"This study finds that the elimination of the Manufacturing Clause would cause a decrease in demand for American printing and publishing and, after the industry has adjusted, a loss of 78 to 172 thousand job opportunities in the printing and publishing industry. This long-run loss of employment opportunities in printing and publishing would be accompanied by a decrease in employment opportunities in firms (such as paper mills) which supply the printing and publishing industry. The total estimated loss of job opportunities in the U.S. economy is 170 thousand to 367 thousand."

When balanced against the proven miseries of a U.S. unemployment figure that is rapidly nearing 10 percent, the Administration's request for a blank check from the Congress to terminate the manufacturing clause must be rejected.

Mr. Chairman, the printing and publishing industry consists of some 50,000 firms, and has been estimated to employ about 1.3 million workers. Its estimated 1980 receipts were in excess of $68 billion. We urge that the Congress not take the drastic and unwarranted step of delegating to this Administration or, for that matter, to any future Administration the power to terminate the manufacturing clause. To our knowledge, such authority has not been delegated to the Executive Branch at any time since the clause was enacted in 1891. Certainly this is not the time for the Congress to take a chance on a possible swift reversal of a policy that has survived for over 90 years.

We urge the Congress to maintain its oversight responsibility over the copyright system by favorably reporting H.R. 6198, to provide for a four-year extension of the manufacturing requirements of U.S. copyright law.

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON THE THREAT TO BOOK PUBLISHING JOBS IN THE UNITED STATES—AUGUST 5, 1981, CHICAGO, ILL.

The manufacturing clause of the U.S. Copyright Law provides that a book written by a U.S. author living in the United States must be printed in either the U.S. or Canada in order to receive copyright protection in the United States. This provision, in effect in varying forms since 1891, will expire July 1, 1982.

Elimination of the clause would result in a massive move by American publishers and printers out of the United States and the publishing of American authors' books abroad. Widespread loss of jobs throughout the U.S. printing industry would result.

The Department of Labor has estimated that elimination of the manufacturing clause would not only cause a decrease in demand for American printing and publishing, but also would be accompanied by a decrease in employment opportunities in firms (such as paper mills) which supply the printing and publishing industry. It is estimated that the total loss of jobs in the United States, could be as high as 367,000.

The present manufacturing clause does not prevent the free flow of cultural information. Books authored by foreign nationals, either in their native language or in English translation, manufactured outside the United States, may be imported into the United States duty free. Also American authors who are unable to find an American publisher may have their work printed overseas and brought into this country without manufacturing restraint.

Removal of the manufacturing clause from the Copyright Act will not produce any tangible benefits for the American consumer. The manufacturing clause is a vital defense against wholesale destruction of the U.S. industry. It should be preserved.

For these reasons, the AFL-CIO urges passage of H.R. 3940 which would permanently retain the manufacturing clause as a part of the Copyright Law.

Chairman GIBBONS. Thank you, Mr. Koplan.

Mr. Bailey?

Mr. BAILEY. No questions. I just want to thank the witnesses.

Chairman GIBBONS. Mrs. Jager, do you have a statement to make?

Ms. JAGER. One thing I did want to mention was that I wanted to thank the committee for having an extensive discussion of the protocol of provisional amplification. I think there is far too little attention paid to this in discussions about our relations with other countries and far too little understanding on the part of most Americans that all other countries have grandfathered in their previous tariff and trade barriers and most of them not only have retained them, but are increasing them while we are still holding ourselves to the very minimal ones that we have.

Chairman GIBBONS. Thank you very much.

Next we will have a panel composed of the Association of American Publishers; the Authors League of America; and the Council for a Competitive Economy. Carol Risher, Irwin Karp, and Barbara Stevens.

I took the liberty of grouping you together because I thought your positions were compatible. If you would rather testify separately, we would be glad to separate you. It doesn't make any difference to me.

Ms. RISHER. It is perfectly all right, Mr. Chairman.

STATEMENT OF CAROL A. RISHER, DIRECTOR, COPYRIGHT, ASSOCIATION OF AMERICAN PUBLISHERS, INC.

Ms. RISHER. The AAP asks that our statement in its entirety be accepted into the record.

Chairman GIBBONS. Yes, ma'am, it will.

Ms. **Risher**. I would like to focus on the economic and trade policy implications in my remarks this afternoon. We are pleased this committee is considering this matter. The issue of foreign book manufacturing—if an issue—involves only trade matters and not whether the creative endeavors of authors and publishers should lose copyright protection to which they are entitled.

The AAP opposes the bill. We support the statute as written with the phase-out July 1, 1982. We do this for several reasons. One, the manufacturing clause serves no useful purpose to printing and book manufacturing industries in this country.

They have attained levels of technological development, quality, capacity, and general capability that are unsurpassed anywhere in the world. They do not need artificial and damaging manufacturing clause provisions.

Two, the manufacturing clause is not necessary, because conventional trade relief is available in the event of demonstrable need. There is other traditional protection. I want to reference specifically the protocol of reservation the United States signed when it entered into the Florence agreement. It is in my statement at page 3. I will not take time to read it now. The key clause paraphrased is if there are "such conditions as to cause or threaten serious injury to the domestic industry—in the United States—in that territory producing like or directly competitive products * * *" then tariffs can be imposed. In sum, the Florence agreement is not an impediment. The protocol of reservation allows tariffs to be imposed.

Three, the economic facts do not support the retention of the manufacturing clause. The Department of Labor study is fatally defective. In Mr. Harrison's prepared text this morning, there was a letter from David Ladd to the Honorable Robert Kastenmeier, chairman of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice. On page 2 of that letter, Mr. Ladd's office analyzes each sector of the publishing and printing industries that are referenced in the Labor Department report and points out that most of these sectors are not covered by the manufacturing clause and therefore, if the works were to be manufactured abroad, that could happen with or without the retention of the clause.

The letter also points out inaccuracies in a sector that is extremely important to Sector 260(c) book printing and publishing. Seventy percent of the jobs in this sector are publishing jobs and, therefore, not at all affected by the retention or phaseout of the manufacturing clause. The publishing function will continue to exist in this country. Those jobs will not be lost. This letter points out the invalidity of the Labor Department numbers which have been bandied about today.

Four, the factors governing where a U.S. publisher decides to have his books manufactured are quite separate and quite different from the manufacturing clause. One is timing. Book publishing is a highly time sensitive industry. Because of the quick turnaround times required on journals, as you mentioned, Mr. Bailey, and on books, especially trade books and best sellers, because of this timing, publishers will continue to manufacture in this country despite any change in the law.

Quality control can be maintained in this country. We can check color; we can go right there to the printers and see what is going on and be able to make determinations on premises. Differences in climate conditions in foreign countries cause books that are manufactured abroad to warp when they come into this country. I have heard U.S. publishers tell horror stories when they try to have books manufactured abroad where the glue dries up and the bindings fall apart.

U.S. publishers have tremendous confidence in the domestic manufacturing and printing business. Currency convertibility is another reason we stay here, and transportation and insurance costs increase anything we would save on decreased labor costs.

Some publishers also use direct shipment from manufacturers. This is not possible if manufacturing is done abroad. Another factor is the need to go back to press for reprints.

My fifth point is the U.S. relationship to the world community. The United States has attempted to maintain a leadership role in the international copyright world. Every time we go to a meeting we are embarrassed to have to speak to the manufacturing clause.

We have a fear that developing countries might emulate us. In fact, the U.S. book publishing industry sent a delegation to the People's Republic of China because this represents a phenomenal potential market for our books. Billions of people who could buy U.S. manufactured books.

We are not now exporting in big quantities to China because they do not have a domestic copyright law. Chinese officials have asked for the assistance of the U.S. Copyright Office and many of our U.S. publishers to help them draft a domestic copyright law and to educate them about copyright. One of the questions that has come up repeatedly in the People's Republic of China is phrased this way: "We notice in your law there is a manufacturing clause. Should we have one in our country's law?"

If the People's Republic of China in their domestic copyright law create a manufacturing clause, it would be a step backward in copyright history.

Canada right now has a manufacturing clause on its books. We found out about this when a U.S. publisher told us that he had received a letter from a Canadian publisher saying that he was going to invoke the Canadian manufacturing clause. It is section 14 of their law. What the letter said was, in effect, "U.S. publisher, you have a very good book on computer software. If you do not arrange to have it manufactured in Canada, we will give a Canadian publisher a compulsory license—the right to publish it in Canada, and to sell in Canada—and we will send you 30 cents for each book sold a royalty that is fixed under law."

The U.S. publisher was outraged because he right now was exporting vast quantities to Canada, and selling them for $5.95. To get 30 cents instead of $5.95 because of a Canadian manufacturing clause was something that was an intolerable situation.

We—with the assistance of the Department of State, talking to people, letting this be known—were able to discourage the invoking of this provision of Canadian law. In fact, Canada is currently considering revising their law and one of the movements is to take the so-called manufacturing clause out of the Canadian law because we are taking our clause out of our law, which I hope we still are.

The Copyright Office and others have referenced the letters from the United Kingdom, the appeal from the EEC to GATT, and the threat of retaliatory acts. A previous witness was asked about those retaliatory acts.

I would like to take a minute to respond to that. It is true, as Mr. Nordberg, I believe it was, said that right now the technical books which are published in this country are the basis of the 600 million books that are sold abroad.

However, if there are retaliatory acts, those books will not be allowed to be sold abroad and what will happen is something analogous to what Canada tried to do.

U.S. Publisher: You want to sell your book, those 600 million books, abroad, you have to make arrangements to have those manufactured abroad.

Those 600 million books which are manufactured in this country now would then not be manufactured in this country if the EEC took retaliatory steps.

We see the manufacturing clause as a barrier to free trade. We hope that this committee, which is a trade committee, can see how important it is to get the manufacturing clause out of the copyright law for us, for all of us in America.

Thank you.

[The prepared statement follows:]

STATEMENT OF CAROL RISHER, DIRECTOR, COPYRIGHT, ASSOCIATION OF AMERICAN PUBLISHERS

SUMMARY

The "manufacturing clause," section 601 of the Copyright Act, should be eliminated as now scheduled on July 1, 1982.

Manufacturing requirements have no place in the copyright laws. There is simply no basis in history, experience, law, logic, or principle for the notion that full protection of authors' and publishers' rights in the fruits of their labors may be made to depend upon the happenstance of where the manufacture of copies occurs.

Manufacturing considerations are matters of trade regulation, not copyright law. If, notwithstanding every reasonable expectation, the book production industry cannot thrive by reason of its own quality of service and product, authors and publishers should not be held hostage. Traditional tariff remedies will be available to that industry in the event of demonstrable need.

Retained imposition of the manufacturing clause on the copyright law is harmful to our nation's international standing and position in the world community. Retaliatory or like measures can be anticipated and will be adverse to our country's interests.

Elimination of the manufacturing clause will not cause any meaningful dislocation of domestic publisher/manufacturer patterns and relationships.

STATEMENT

I am Carol Risher, Director of Copyright for the Association of American Publishers. We are appearing today in opposition to H.R. 6198, the bill to retain domestic manufacturing requirements as part of our copyright law until July 1, 1986. We believe that the "manufacturing clause," section 601 of the Copyright Act, should be eliminated as now scheduled on July 1, 1982.

Since at least the early 1950s, the manufacturing requirements of our copyright laws have been the subject of searching analyses. In panels, hearings, and studies conducted before and for both the Copyright Office and Congress, in connection with adherence of this country to the Universal Copyright Convention, general revision of our domestic law, the July 1981 Report of the Register of Copyrights, and the scheduled elimination of these requirements, extensive testimony has been taken on all aspects of the question—economic, legal, philosophical, historical, and otherwise. The record speaks for itself, and I do not plan to review that history. However, I would like to state our principal positions in this matter.

First, the manufacturing clause is an unjustifiable burden on copyright. There is simply no basis in history, experience, law, logic, or higher principle for the notion that full protection of authors' and publishers' rights in the fruits of their labors may be made to depend upon the happenstance of where the manufacture of copies (or, more accurately, where certain steps in the manufacture of some types of copies of particular kinds of works)[1] occurs.

The manufacturing clause has been an embarrassing and unprincipled anomoly in our copyright law from its birth in 1891—as the price exacted by the printing industry for this country's grudging acceptance of international responsibilities—to the present date. Indeed, under the new Copyright Act the irrationality of the manufacturing clause has been highlighted even further. Copyright now attaches automatically upon the very creation of a work; and the law recognizes a fundamental distinction between the intellectual "work" that is its object, and the mere physical form or copy in which it is embodied.

In recognition of the foregoing, Congress has repeatedly watered down the reach and effect of the manufacturing clause. In 1976 Congress took the final step and eliminated the provision in its entirety, subject only to a grace period that would permit the book manufacturing industry to adjust to the change. That period will soon end. The adjustment has been made—although certainly for reasons more fundamental than the manufacturing clause of the copyright law, the United States book manufacturing and printing industry has attained levels of technological development, quality, capacity, and general capability that are unsurpassed. It does not now (if it ever did) need the artificial and damaging "protection" of a manufacturing clause imposed on the copyright law. In sum, on July 1, 1982, the remaining vestiges of the anachronistic, inexplicable, and indefensible manufacturing requirement imposed on the copyright law should be finally laid to rest.

Second, manufacturing considerations and the purported justification for retention of the clause are, to the extent pertinent to legislative determination, matters of trade regulation, not copyright law. If, notwithstanding our own and every reasonable expectation, the book production industry cannot thrive by reason of its own quality of service and product, authors and publishers should not be held hostage. And we must emphasize that, contrary to the repeated assertions of book manufacturing interests, traditional tariff (and other) remedies will be available to that industry in the event of demonstrable need. For example, although it has been repeatedly alleged that the Florence Agreement makes it impossible for printers and manufacturers to secure protection from foreign competition, other than under the copyright laws, this is not an accurate or adequate picture. The United States ratified the Florence Agreement subject to a protocol of reservation. See Presidential Proclamation of November 3, 1966, TIAS 6129 at 30. The text of the reservation is, in part, as follows:

"If, as a result of the obligations incurred by a contracting State under this Agreement, any product covered by this Agreement is being imported into the territory of a contracting State in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in that territory producing like or directly competitive products, the contracting State, under the conditions provided for by paragraph 2 above, shall be free, in respect of such product and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend, in whole or in part, any obligation under this Agreement with respect to such product."

It is therefore apparent that the Florence Agreement does provide a basis for protection of domestic manufacturing interests. This is not to say that the AAP believes that the circumstances envisaged by the protocol will result from elimination of the manufacturing clause; nor do we in any way suggest that AAP favors tariffs on books, or any departure from the basic provisions of the Florence Agreement. However, we do think the foregoing clearly demonstrates that the copyright law is a totally inappropriate vehicle for resolving the concerns of book manufacturers and printers over foreign competition, and that there are other vehicles by which such concerns should be addressed. This point is further developed at pages 98-100, 109-111 of the July 1981 Copyright Office Manufacturing Clause Report.

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[1] The manufacturing clause applies only to copyrighted works consisting preponderantly of nondramatic literary materials by U.S. authors in the English language. It does not apply, for example, to blank forms or other non-copyrightable material, to foreign language works (by any authors) or to works by foreign authors, to advertisements, other material, or even books consisting preponderantly of illustrations or graphic elements, or to printed musical, dramatic, or cartographic works. It is, in short, a model of discrimination against a particular class that serves only to highlight its illogic as part of the copyright law.

Book publishers are not alone in this view. The manufacturing clause has in the past been consistently and forthrightly condemned and its elimination called for by the Author's League, by prior Registers of Copyright, by representatives of the State and Commerce Departments, and by a wide variety of organizations interested in the creation and dissemination of knowledge. The copyright committees of both houses of Congress have acknowledged that there is "no justification on principle" for the provision in the copyright laws.[2] And, most recently, both the present Register of Copyrights—after an exhaustive study supported in part by detailed analyses conducted by the Economics Division of the Congressional Research Service and the Bureau of Industrial Economics of the Department of Commerce—and the present administration in the Department of State have again called for its termination.[3]

Third, the infirmities of the manufacturing clause are not limited to theoretical considerations of "principle." When viewed solely as a domestic matter, the clause does have the practical effect of potentially inhibiting the publication of certain works; and it subjects authors and publishers to the loss of valuable rights for reasons that do not exist in fact, and that are alien to the concepts and workings of our copyright system. Although we do not believe that elimination of the clause will significantly impact on the domestic book manufacturing and allied production industries, we do consider the provision an impediment that can adversely affect authors and publishers in some cases and that should therefore be removed.

But consideration of the manufacturing clause cannot end with domestic concerns. One of our principal objections to any failure to eliminate the manufacturing clause as scheduled lies in the effects in the world community, and it is to this that I will now turn.

In 1975 the former Register of Copyrights wrote that "of the many blots on our international copyright escutcheon [the manufacturing clause] has traditionally been the biggest and the dirtiest."[4] No one familiar with the history of the United States' involvement in international copyright can doubt the accuracy of that statement.

In less than a century, our country has taken major strides towards full participation in the international copyright system, and has sought to become a leader in the international copyright community. Our representatives, both private and governmental, have attempted to favorably influence the handling of problems of copyright protection that are increasingly faced in common by many countries, and to deal with the particular appetite in developing countries for foreign works that is too often accompanied by a lack of full respect for the rights of their creators. These steps, and our hopefully emerging leadership role, are invaluable to our authors and publishers—indeed, to all of this country's creators and copyright industries—in assuring equitable treatment for the use of their works abroad, not to mention our national interest and prestige. To a country that is a major exporter of intellectual properties, and in an age when multi-national exploitation of our works is the rule rather than the exception, the importance of foreign perceptions of our law and role, and the elimination of impediments to international protection and marketing, cannot be underestimated. We have gone far in the right direction; but we are not there yet.

The Copyright Act of 1976 (the first general revision since a scant twenty years from our first recognition of international copyright), and specifically the scheduled elimination of the manufacturing clause, is being watched with great interest throughout the world. We believe that a failure or delay in eliminating the clause will be taken as a clear signal--a signal that this country approves the principle of encumbrances to copyright, that we endorse obstacles to the flow of information, and that our national claims to respect of authors' rights and leadership in councils of debate are at best illegitimate and at worst hypocritical. The possible responses to this signal are many—in developing countries particularly the response may be imitation, and in others disrespect—but they are all detrimental. Among the possibilities are:

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[2] S. Rep. 94-473, 94th Cong., 1st Sess. 148 (1975); H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. (1976).

[3] U.S. Copyright Office, Manufacturing Clause Report 4-5, 81 (July 1981).

[4] Draft Second Supplementary Report of the Register of Copyrights on General Revision of the U.S. Copyright Law 14:32 (1975).

The adoption or continuation of "manufacturing clauses" of various types as conditions or burdens on the acquisition, enjoyment, enforcement, and/or marketing, licensing or exploitation of copyrighted works.

The adoption or maintenance of other formalities, conditions, or burdens to copyright.

The adoption or reinforcement of other barriers to trade in books outside of copyright laws.

Steps such as these do not have to be "retaliatory"—that is, taken in specific retribution for our actions. They may result from a combination of local self-interest and an appearance of legitimacy fostered by our own law. The result is no less harmful. And to this list we must add the perhaps more elusively stated, but no less damaging, impact on our national claims to example and leadership. We note that, in a letter to the Hon. Robert Kastenmeier, Chairman of the House Copyright Subcommittee, dated December 17, 1981, the Register of Copyrights reported:

". . . we have received information concerning possible retaliation against the United States if the clause is retained. According to persons involved in trade negotiations, the Common Market countries and Switzerland have at various times refrained from seeking trade relief against the United States on the belief that the clause would expire in 1982. As recently as last month the matter was raised at meetings in Washington in which the E.E.C. apparently manifested an intention to pursue relief under the General Agreement on Tariffs and Trade if the clause were to be retained. Whle the scope and effect of any retaliatory measures cannot easily be predicted, it is fair to assume that they will be adverse to U.S. interests. In addition, the British Embassy sent a letter to the State Department on December 9, 1981 . . . in which it 'note[s] with regret' the [possible retention of the manufacturing clause in the copyright law]."

It has sometimes been suggested that the possibilities of adverse foreign reaction to retention of our manufacturing clause are minimal because our provision is now limited to U.S. citizens, and because the Universal Copyright Convention prevents foreign countries from subjecting works of our nations to foreign manufacturing requirements. Neither report is accurate.

To begin with, we do not see how the restriction of foreign manufacturing provisions to foreign nationals can benefit our book production industries, who may be foreclosed from business that might otherwise be drawn to their superior capabilities; nor do we understand how it can be justified in terms of our national commitment to the free flow of information and ideas to our shores; and we certainly cannot expect our authors to be content with our own law's continued discrimination against them. But even beyond these factors, we are concerned that the restriction of our manufacturing clause to domestic authors is not what will be of paramount notice abroad. We think it likely that what will be noticed is the principle of a "manufacturing clause"—that is, the attachment of copyright (or other) consequences to the place of manufacture. That our own law happens to limit those consequences to works of our own authors may well be considered a refinement that will not offset or limit the responses I described earlier.

Similar comments are pertinent to the Universal Copyright Convention. Article III of that treaty excuses Convention works (assuming they bear proper notice) from formalities, including domestic manufacturing requirements, that would otherwise be imposed as conditions of copyright. But it does not proscribe procedural formalities, nor others that are not "conditions of copyright." The precise reach of this phrase is not crystal clear. Taking the Convention and its history as a whole, it is our view that no member of the UCC should apply a manufacturing requirement to a Convention work if to do so would result in significant impairment of protection, exclusivity, or enforcement. But we cannot feel very confident that this view will prevail abroad so long as our own law appears to recognize the legitimacy of subjecting copyright to the consequences of place of manufacture. (Of course, the Universal Copyright Convention is not binding upon all countries; nor does it inhibit the adoption of non-copyright trade barriers.)

In sum, in the international context no less than domestic, our manufacturing clause is a damaging aberration. It is time it passed into history.

Fourth, elimination of the manufacturing clause from our copyright law will not be particularly meaningful to United States manufacturing interests. For at least the following reasons, it will not cause any major dislocation of domestic publisher/manufacturer patterns and relationships:

Competition: Book publishing is a highly competitive industry. Introducing new titles into the marketplace ahead of its competitors is the goal of every editor in publishing. This demands the shortest possible manufacturing schedule. Short manufacturing schedules are not possible when your supplier is thousands of miles away.

Quality: Quality of production has become of paramount importance. Thus, editors and production experts do wish to visit their printing plants in order to approve the color and/or registration of the actual press run. With continuing adoption of new technology, the U.S. book manufacturing industry has reached and will undoubtedly maintain standards of quality that are and will remain difficult to even match anywhere outside this country.

Climate conditions: Different climate conditions and material standards in foreign countries often result in the warping of hard cover books after delivery to the U.S.

Transportation cost: Delivery to and pick-up from the dock, freight forwarding charges, ocean freight, insurance, and similar shipping considerations add considerably to the cost of manufacturing abroad.

Direct shipment from manufacturers: Many publishers ship their books directly from the U.S. binderies to customers at the uniform special rate fourth class rate. This is not possible when manufacturing is performed abroad.

Reprints: Estimating sales is not yet an exact science. Thus, quick reprints are the norm rather than the exception. With the advent of new equipment as the Cameron Press, it is possible to obtain finished books starting five to seven days after placing the order. Reprinting in foreign countries takes months.

Currency: The revaluation of currency in a number of foreign countries has resulted in making U.S. manufacturing prices much more competitive.

Manufacturing interests have previously made reference to the "Australian Experience" whereby that government had to come foth with finncial subsidies to local publishers in order to convince them not to print and bind all of their books in Hong Kong and Singapore. Actually, the Government of Australia gave publishers a financial subsidy that represented the difference between what publishers would have paid to produce books in Hong Kong or Singapore and what they actually had to pay to Australian printers and binders. Fears have been expressed that, without legal or government intervention, the U.S. printers and binderies might also be threatened with possible extinction after the phasing out of the manufacturing clause. However, the two situations are not at all analogous. For example, the requirements of Australian publishers are very small and are geared to their native market, thus enabling them to use small presses and binderies available in Hong Kong and Singapore. Similarly, the technical capabilities available are not comparable to the U.S. Also, both countries are very close to Australia, thus enabling reasonable scheduling. The "Australian experience" is precisely and only that: a localized situation attributable to unique factors. It is not pertinent to the question before the Committee.

Finally, as noted earlier, in the event circumstances come to suggest a contrary development, it is clear that the law and the vigilence of this committee will provide appropriate safeguards in the proper forum: trade, not copyright law.

Thank you for the opportunity to present these views.

Chairman GIBBONS. Thank you for your very strong statement. The Authors League of America.

STATEMENT OF IRWIN KARP, COUNSEL, AUTHORS LEAGUE OF AMERICA

Mr. KARP. Thank you, Mr. Chairman. I am Irwin Karp, attorney for the Authors League of America.

The league is the National Society of Professional Authors, representing some 11,000 members. I will not read my prepared statement, which we have submitted for the record, but will summarize briefly only two points which I think should be brought to the subcommittee's attention.

Let me emphasize the impact of the manufacturing clause falls only on one class of American authors.

This clause prohibits the importation and distribution in the United States of books, journal articles, and other literary material written by U.S. authors. It does not apply to books written by foreign authors in English.

Under the present law, and under the law as it would be extended if the bill were passed, any American publisher is free to produce anywhere in the world a book by any author who is not a citizen or domiciliary of the United States.

Thousands of books are published in this country by U.S. publishers that have been written by foreign authors, from the great popular successes like Ken Follett and Graham Greene on down through all manner of other texts.

Right now, and in the future, with the clause extended, every one of those books could be manufactured in Japan, Taiwan, or anywhere else in the world, imported without any restriction, and sold in unlimited quantities in the United States by U.S. or foreign publishers.

The only class of authors whose copyright protection is affected by this clause are American citizens who write books and literary material. All other authors, foreign and domestic, of every other class of copyrighted work, are exempt from the clause and copies of their works—whether they be films, records, music, paintings, or any other category—can be manufactured abroad and distributed here without restriction, by U.S. publishers.

So we are dealing at the outset with an extremely discriminatory piece of legislation.

That leads to our first point, the point I want to stress today.

I respectfully submit to the subcommittee that with the clause extended, the Authors League would be compelled to challenge its constitutionality in the courts, and hopefully in the Supreme Court, because we believe that the embargo as you, Mr. Chairman, have referred to it—and it is precisely that—is a flat restraint on one of the basic rights protected by the first amendment.

As the Supreme Court has pointed out repeatedly, the amendment protects not only the right to publish a book, but the right to distribute it. This clause is by its very terms a prohibition on the distribution of books by U.S. authors if that author or his publisher chooses to manufacture the book in some other country rather than the United States.

Chairman GIBBONS. It worried me from the beginning of this. That question has worried me from the beginning.

I have to admit that I didn't know a single thing about these constitutional issues until this morning. But it now seems possible to me that this law is a patent violation of the first amendment.

Mr. KARP. We raised this point in the past in the courts. Unfortunately, we did it as amicus curiae on a petition for a writ of certiorari under the old law.

The writ was denied, so there was no decision on the merits on the basis of these arguments. Subsequent to that, we went through the copyright revision process and the House Judiciary Committee determined that the clause would be phased out.

Since we faced an elimination of the clause in 1982, and we had obtained some modification of it, we decided that we would await its termination rather than challenge it in the courts; but we are prepared to do it now, because we see no hope, if this clause is extended, that it will ever be written out of the law.

Chairman GIBBONS. Unfortunately, I had to go into this question one time over obscene material. I reviewed all the questions the

Supreme Court has ever had on obscene material—and there are a number of those, as you know.

It just occurs to me—and I haven't heard any arguments the other way—that you may have here a statute which has been around for a long time but which contains unresolved first amendment issues.

Mr. **Karp**. Mr. Chairman, having been involved on behalf of the Authors League in many first amendment cases—several of them before the Supreme Court—I find the first amendment often is applied 100 years after the wrongdoing first occurs.

We are almost timely compared to some of the other cases invoking the clause.

Chairman **Gibbons**. We vigorously endorse it, but usually the abuses against the first amendment have gone on a long time.

Mr. **Karp**. Yes.

I would also like to point out that not only is the clause itself a direct ban on circulation, but it also violates another basic first amendment principle that was most recently analyzed by Judge Mikva in the "Taxation With Representation" suit here in the Court of Appeals in the District of Columbia in which the majority opinion quotes Supreme Court opinions which point out that while the Government may deny a citizen benefits for any number of reasons, it may not deny a benefit to a person on a basis that infringes upon his constitutionally protected interests.

The Supreme Court has prohibited conditions on public benefits—in this case copyright protection—which dampen the exercise of first amendment rights, however slight the inducement to the individual to foresake those rights.

We have in the manufancturing clause not only an embargo, which is the direct ban, but we also have a provision which deprives the American author of the right to protect his publishing rights if more than 2,000 copies of a book are brought into the United States, having been manufactured abroad.

So that is another restraint, a penalty on the author for exercising his first amendment right to choose a place of manufacture other than the United States.

I have no doubt if the Congress were today to pass a law that simply said foreign-made copies of books cannot be imported into the United States, that the Supreme Court would strike it down. That is just what this clause says.

Beyond that, the clause violates both the first and fifth amendments because of its classification, its unequal and discriminatory classification. As I pointed out, it discriminates against U.S. authors of books and does not impose the same restraint on foreign authors of books in English.

It also discriminates between U.S. authors of books and all authors, foreign and domestic, of other categories of copyrighted works.

On the face of it, it is obvious that were the justification for this clause to be the protection of American printing jobs, that American printing jobs can be lost just as easily by the importation of books by Ken Follett, Graham Greene, or any other foreign author as they are by manufacture abroad of books by American authors.

I, for the life of me, cannot see how this discriminatory classification can withstand the test that the court has applied in a number of cases; most recently, in the court of appeals decision on exemption from the lobbying restrictions for certain organizations.

Our second point which I would try to do as briefly as possible is this: If the manufacturing clause is continued in its present form, and if the predictions of American book manufacturers prove true and the cost of producing books abroad becomes much more advantageous for U.S. publishers than domestically manufacturing the books, then American authors are going to face a severe loss of publishing opportunities.

If an American publisher has to choose, as publishers always do, between books by foreign authors and American authors to fill the limited number of places on every American publishers annual list, and if the American publisher, by choosing a British or French or Canadian book in preference to a U.S. author's book, can then have the advantage of printing that book and manufacturing it more cheaply abroad, many American authors will lose their opportunities to be published.

Moreover, many books published by American publishers each year are literally commissioned. The publisher decides he wants a book on a particular subject and then goes out and finds an author.

Many of those books can be just as readily written by somebody in Montreal as in New York, California, or Pennsylvania, or by somebody in Europe.

If the difference in the nationality of the author may mean the opportunity to publish abroad at a great saving, as the prior witnesses predict, American authors again will lose many publishing opportunities.

The Authors League therefore proposes—and regretfully does so, but in the desperate need to protect American authors—that if the Congress decides to extend this clause—and we urge that it does not—that it should make it applicable to all authors, foreign and domestic.

Otherwise, American authors will be placed at a great competitive disadvantage.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF IRWIN KARP, COUNSEL, THE AUTHORS LEAGUE OF AMERICA

My name is Irwin Karp. I am counsel to The Authors League of America, the national society of professional authors, representing 11,000 members. These authors write books, poetry, articles and other nondramatic literary works. The import ban of the "Manufacturing Clause" (17 USC §601) and its accompanying dilution of copyright protection apply only to these works, and only to those written by U.S. citizens or domiciliaries.

The Authors League opposes any extension of the Manufacturing Clause, which will expire this July 1st. and therefore urges the Subcommittee to report unfavorably on H.R. 6198—which would prolong the life of the Clause until July 1, 1986.

The Authors League further urges that if the Subcommittee concludes the Clause ought to be extended, it should recommend the amendment of §601 to impose the import ban on copies of English-language books by foreign as well as U.S. authors. A proposed amendment to accomplish that change is attached to our statement.

SUMMARY OF THE AUTHORS LEAGUE'S POSITION

A. The Manufacturing Clause should expire this July 1st, as Congress provided in the 1976 Copyright Act:

The Clause violates the First and Fifth Amendments.

It is unfair and damaging to U.S. authors.

Its expiration will not be the cause of reduced employment in book manufacturing.

Extension of the Clause will not prevent U.S. publishers from producing many books in other countries if cost differentials make that profitable—they need only substitute foreign for U.S. authors.

B. If the Manufacturing Clause is to be extended, it should be amended to subject foreign authors to the same "Made-in-the-U.S.A." manufacturing requirement that would continue to be imposed on U.S. authors of nondramatic literary works:

Without this amendment U.S. authors are threatened with the loss of many publishing opportunities.

A great many books that U.S. publishers commission each year could be diverted from U.S. to foreign authors so that U.S. publishing firms could manufacture them abroad and import them without any restriction under § 601.

The Authors League's proposed amendment would increase protection for U.S. book manufacturers and their employees.

The League's proposed amendment does not violate the Universal Copyright Convention.

A. THE MANUFACTURING CLAUSE SHOULD EXPIRE ON JULY 1, 1982

1. Background

§ 601, enacted in 1976, bans the importation and public distribution in the United States of English-language books or other nondramatic literary works by U.S. authors that are made abroad. These restrictions do not apply to foreign authors unless domiciled here, and do not apply to motion pictures, records or other categories of copyrighted works by U.S. or foreign authors. If more than 2,000 copies of a book are imported, anyone can publish it without permission or payment until an authorized U.S.-made edition is published.

A U.S. author is exempt from the import ban only if domiciled abroad for at least one year before the importation of copies, or if the book only had been published abroad and by a foreign publisher.

§ 601 is an outright import ban intended, like its more stringent predecessor of the 1909 Act, to prevent publishers from manufacturing abroad the copies of American authors' books they sell in the United States, and to compel them to use U.S. printers and book manufacturers to produce those copies.

The Clause was roundly condemned in the House Judiciary Committee's Report on the 1976 Copyright Act. The Committee bluntly stated "there is no justification on principle for a manufacturing requirement in the copyright statute." (94th Congress, 2d Session; Report No. 94-1476, p. 166). The Congress accordingly provided in the 1976 Act that the Manufacturing Clause would expire on July 1, 1982.

On principle, the Manufacturing Clause is as unjustifiable today as it was in 1976; and on principle, there is no excuse for its extension. Particularly so, since the Clause is unconstitutional.

2. Constitutional objections to the manufacturing clause

(a) The First Amendment.—As the Supreme Court has emphasized, the First Amendment's protection "embraces the circulation of books as well as their publication" (*Bantam Books* v. *Sullivan*, 372 U.S. 48, 65 [1963]), and the Amendment precludes government from imposing restraints on the importation or public distribution of books and other literary materials, or penalizing those activities. *Smith* v. *California*, 361 U.S. 48, 65 (1959); *Lamont* v. *Postmaster General*, 381 U.S. 301 (1965); *Bantam Books* v. *Sullivan, supra.*

The Manufacturing Clause is a flagrant violation of the First Amendment. Its avowed purpose is to prohibit the "importation into or public distribution in the United States" of copies of books by U.S. authors that are manufactured abroad.

The Clause violates the First Amendment in another respect, since it discriminates against U.S. authors of books—imposing on them a restraint not imposed on (i) foreign authors or books; or (ii) on U.S. or foreign authors of all other classes of copyrighted works. This is a "legislative classification that is strikingly underinclusive" and therefore violates the First Amendment. *Erznoznik* v. *City of Jacksonville,* 422 U.S. 205 (1975). There the Court stressed that although the legislature may, ordinarily, "deal with one part of a problem without addressing all of it", the legislature cannot make such discriminatory classifications between media of expression. Equal protection "is closely intertwined with First Amendment interests", the Supreme Court has told us, and "there is an equality of status in the field of ideas." *Police Department of Chicago* v. *Mosley*, 409 U.S. 92, 95–96 (1975).

§601 does, and would if extended, discriminate against one medium of expression—books in English by U.S. authors; denying them equal status with books in English (or other languages) by foreign authors, and denying them equal status with all other copyrighted works by U.S. or foreign authors. It imposes no ban on importation of copies of English-language books by foreign authors, although this can deprive U.S. book manufacturers of the opportunity to produce the U.S. editions; the section imposes no ban on importation of films, records, sheet music or copies of other works, by U.S. or foreign authors, although these importations can deprive U.S. manufacturers and their employees of the opportunity to produce these copies. §601's discriminatory classification of English-language books by U.S. authors violates the First Amendment as well as the Due Process clause of the Fifth Amendment.

(b) The Fifth Amendment.—The Manufacturing Clause denies U.S. authors of books equal protection of law in violation of the Fifrth Amendment. In *Shapiro* v. *Thompson*, 394 U.S. 618, 642 (1969), the Supreme Court held that the Fifth Amendment forbids "discrimination that is 'so unjustifiable as to be violative of due process.' *Schneider* v. *Rusk*, 377 U.S. 163, 168 (1964); *Bolling* v. *Sharpe*, 347 U.S. 497 (1954)." In *Schneider* due process was violated by a statutory discrimination between two classes of citizens—native born and naturalized. In *Shapiro*, it was violated by discrimination between new and old residents.

The Manufacturing Clause discriminates against U.S. authors of books in two respects. It bans the importation and distribution here of foreign-made copies of their books. It does not impose that ban on foreign authors of books in English; copies of their books, made in any country, can be imported and distributed here with no limitation on quantity. This discrimination is unjustifiable. Many English-language books by foreign authors are sold in the United States, often in great quantities. Under §601, as it would be extended, U.S. publishers are free to import foreign-made copies of these books without restriction, even though this will deprive American book manufacturers and their employees of work as would importation of foreign-made copies of U.S. authors' books.

§601 also discriminates unjustifiably between U.S. authors of books and all other authors—U.S. and foreign—of every other class of copyrighted works. Foreign-made copies of motion pictures, records, music, and other works by U.S. and foreign authors can be imported in unlimited quantities and distributed here—even though this importation deprives U.S. manufacturers of these products and their employees of work.

3. Economic consequences of the expiration of §601

As the Copyright Office Report of July 22, 1981 clearly demonstrates, it is not likely that U.S. publishers will turn to foreign book manufacturers to any significant extent if the Manufacturing Clause expires on July 1st. Transportation costs and time lags, the need for tight inventory control, and other economic factors will lead U.S. publishers to continue producing books here. (pp. 132–134).

Moreover, extension of the Manufacturing Clause would not prevent foreign manufacture of the great preponderance of "nondramatic literary works" since these consist of commercial products, advertising, business forms and other non-book categories. Much of this material is not even protected by copyright; much is exempt from §601 as preponderantly graphic; and much material relies so little on copyright protection that it would be made abroad, if costs dictated, even though forfeiture of copyright protection occurred.

The highly inflated job-loss figures of the Department of Labor Report are due, in part, to hypothetical losses in these areas, which could not be prevented by extension of §601. Indeed, the Labor Department Report cautions that its "estimates of employment opportunity losses should be interpreted with care. The lack of certain basic data, such as the percent of printed materials in each sector that is actually copyrighted, made necessary the approaches employed here, and prevented more accurate point estimates." (p. 12)

The Copyright Office Report notes that the Congressional Research Service study reached far lower estimates, and the Report concluded "the growth in demand for books due to increased domestic demand and increased exports might result in no job loss at all, but, rather, a reduction in rate of job growth." (p. 135).

Finally, the Copyright Office noted that other methods of protection are available to U.S. book manufacturers:

"Alone among developed nations, and virtually alone in the world, the United States, by virtue of the manufacturing clause, controls international commerce in books by curtailing the freedom of choice of some of its copyright owners."

"The means chosen by other nations to exert control (duties, quotas, licenses, exchange restrictions and the like) are costs for entrepreneurs to take into account when they consider where to print their works; the manufacturing clause prevents certain U.S. copyright proprietors from even making such considerations."

"The death of the clause will not leave American [book manufacturing] interests unfairly exposed to foreign competition. The ITC [International Trade Commission] can recommend and the President can impose duties, quotas, and orderly marketing agreements if imports harm American interests." (pp. 130-131)

In this connection, the Report also emphasized that "The Florence Agreement, by virtue of our reservation thereto, does not limit the power of the International Trade Commission to impose duties, quotas and the like with respect to books." (p. 136)

B. IF §601 IS EXTENDED, IT SHOULD ALSO BE APPLIED TO FOREIGN AUTHORS OF BOOKS

American Book manufacturers and labor unions contend that §601 must be extended or thousands of jobs will be lost to manufacturers in Japan and other Pacific Basin countries because they will be able to produce books for U.S. publishers at much lower costs.

If this prediction is valid and the Manufacturing Clause is extended in its present form, discriminatorily applied only to U.S. authors of books, these American authors will be seriously injured in the near future. And U.S. book manufacturers and their employees would still lose work to foreign manufacturers. For extension of §601 in its present form would not prevent U.S. publishers from having countless English-language books manufactured abroad and importing them without limitation on quantity—so long as the U.S. publishers used foreign rather than U.S. authors to write the books.

If §601 continues to apply only to U.S. authors, and foreign cost-of-manufacture advantages increase, as the book manufacturers contend, U.S. authors will be severely handicapped in their competition with foreign authors for the limited number of places available or the annual publishing lists of U.S. publishers. U.S. authors always have faced the competition. But if the choice of a British author's novel or biography carries with it the advantage of much cheaper production in Japan or Taiwan, U.S. authors competing for that place on the list are greatly disadvantaged—their books, having to be produced in the U.S., would (according the book manufacturers) be much more costly and less profitable to the U.S. publisher.

If, moreover, U.S. publishers will be able to save thousands of dollars in production costs on a book by choosing a foreign author and thus being free to manufacture the copies in Japan or other countries—then a great number of non-fiction books in all categories that U.S. publishers commission each year will be diverted by them from U.S. to foreign authors. U.S. book manufacturers and their employees will not get the work—U.S. authors will be severely damaged.

Consequently, if the Subcommittee decides to approve extension of the Manufacturing Clause, the Authors League urges that it recommend the amendment of the present clause, to apply §601's ban on importation and distribution to all foreign-made copies of English-language books, by foreign as well as U.S. authors. This will, at least, give U.S. authors a chance to compete on equal terms with foreign authors for the opportunity to be published by U.S. publishers in this country.

Enactment of this amendment to §601 would not contravene the Universal Copyright Convention. Article III, §1 prohibits signatory countries from making domestic manufacture a "condition of copyright". But the present §601, and the amended version the League proposes, do not make manufacture here a condition of copyright. Under the 1976 Copyright Act, every foreign author, like every U.S. author, automatically acquires a U.S. copyright in his/her book upon its creation, whether or not it is manufactured in the United States.

Under §3 of Article III of the Convention, Congress can make domestic manufacture of works by all authors, foreign as well as domestic, a condition for infringement suits—just as the 1976 Copyright Act imposes registration and other procedural requirements on them. Nor does the Convention prohibit Congress from imposing an import ban on foreign-made copies of books by foreign authors, as well as those of U.S. authors. Their works are still protected by U.S. copyrights, and can be sold here if manufactured here.

PROPOSED AMENDMENT TO H.R. 6198

A bill to amend the manufacturing clause of the copyright law.

Strike all language after the enacting clause and insert in lieu thereof the following:

That section 601 of title 17, United States Code is amended as follows:

(a) Section 601(a) is amended by striking out "1982" and inserting in lieu thereof "1986".

(b) Section 601(b)(1) is deleted.

(c) Section 601(b)(2) is renumbered "601(b)(1); Section 601(b)(3) is renumbered "601(b)(2); Section 601(b)(4) is renumbered "601(b)(3); Section 601(b)(5) is renumbered "601(b)(4)"; Section 601(b)(6) is renumbered "601(b)(5).

(d) Section 601(b)(7) is deleted.

Chairman GIBBONS. Thank you.

Mr. BAILEY. Thank you, Mr. Chairman. The case you referred to that Abner Mikva cited, I understand although I have not read the dictum—and I am sure you have—the extrapolation concerning the lobbying rights, for example, of certain organizations, I thought he said that the holding in that case was that his interpretation was based upon an absence of congressional intent and that it was not clear that Congress had meant to separate in this case those veteran's organizations, out so that they could enjoy tax-exempt status and still lobby at the same time; am I mistaken?

Mr. KARP. No; you are right. We are both right.

Mr. BAILEY. We are both right.

Mr. KARP. What I was reading to you was only Judge Mikva's summary of a basic principle of law which applies here. It did not apply in that case, because "Taxation With Representation" was not directly denied a benefit. He said if they had been, these cases would have applied.

I am just using this as a summary of cases.

He did say that the discrimination between other 501(c) organizations and veterans' organizations was unconstitutional, because it violated the equal protection clause of the fifth amendment. That is the flat holding of the case.

That is this third position we analyze here.

Our position is really threefold: First, that the embargo is a flat violation of the first amendment because it restricts distribution of books. He did not even get to that.

Mr. BAILEY. I happen to agree with your first amendment interpretations, but we have to deal with practical problems, a multitude of those problems, and those difficulties.

If the Supreme Court of the United States wants to start sticking its nose into an area that makes it very difficult for this country in the name of the first amendment, and I guess it has finally decided that since it cannot sit as the ultimate jury on every obscenity case, it had to start playing around with community standards to solve that practical problem. As they confront the practical problems of that sort, I hope they are wise enough to understand that when it comes to dealing with a multitude of causes for difficulties like the ones we are dealing with here, that they go beyond the principles of the first amendment as they apply domestically. We do have difficult situations in other countries that don't really pay a whole lot of attention to the dictum or the holdings of that renowned group over there across the street.

I had hoped we would bear those things in mind, and I hope that those gentlemen do, also. I am sure that they will.

I would like to ask just one more question.

How many books are printed in the United States of America in foreign languages for sale? For example, you go to Singapore, or you go to Japan and Holland, and you print an English edition of X, Y, or Z, and sell it anywhere in the world, whatever—do we print and export any of those?

Mr. **Karp**. Here, I think some.

Ms. **Risher**. We can get that number for you, Mr. Bailey, and submit it to the record.

Mr. **Bailey**. How significant is it? You must have some idea. Isn't it big enough to notice?

Ms. **Risher**. Yes; it is, but I don't have the specific number with me, because I did not know you were going to ask that question. I will submit it to the record.

[The following was subsequently received:]

Association of American Publishers, Inc.,
Washington, D.C., June 1, 1982.

Hon. Sam M. Gibbons,
Chairman, Subcommittee on Trade,
House Committee on Ways and Means, Washington, D.C.

Dear Chairman Gibbons: On May 27th during your hearing on H.R. 6198, the Manufacturing Clause, Congressman Bailey asked me for specific information about the production of books in this country for foreign export. Although Mr. Bailey's question focused on books in the German language for export to Germany, the U.S. census data does not tally exports according to language. In an effort to be responsive, I have approached Mr. Bailey's question from two different angles. Please accept this letter as an addendum to my testimony for the record.

There is a clear indication that foreign publishers are in fact using U.S. printers. An analysis of the quantity of book exported from the United States to the United Kingdom shows a surge in the late 1970's. This leap represents usage of U.S. printers by U.K. publishers.

[In millions]

Year	Exports In dollars	 In units
1975	$32.0	20.0
1976	32.3	18.7
1977	33.0	15.5
1978	44.2	22.1
1979	63.9	34.1
1980	94.3	49.6
1981	90.1	42.6

The surge in 1978 through 1980 matches the change in the exchange rate between the United Kingdom and the United States where the dollar declined in value as compared to the pound. The 1981 decline in exports parallels the change back of the U.S./U.K. exchange rate. The dollar hardened and the pound softened, so U.K. publishers returned to U.K. printers. Industry analysts assert that this is proof positive that foreign publishers are in fact using U.S. printers and the United Kingdom is but one example.

A second approach to Congressman Bailey's question was to find out whether books predominately in foreign languages and therefore not subject to the manufacturing clause are printed in the United States, inspite of the adsence of restriction. The U.S. college market for foreign language texts is in the $15 to $20 million range and the high school market for foreign language texts is in the same range. Enrollments are approximately 1 million Spanish students, 500,000 French students and 250,000 German students. Although it is not a huge market, foreign language textbooks for English speaking students are manufactured in the United States at all levels and in fact are exported to other English speaking countries including the United Kingdom, Australia, and India.

As I mentioned previously, the U.S. census data does not isolate exports according to foreign language so I obtained this information by interviewing several AAP member publishers who publish foreign language textbooks for the U.S. market and also export them to other English speaking countries.

I hope this information will be helpful to the Subcommittee in its future deliberations on this issue. Thank you for providing the Association of American Publishers with an opportunity to appear before your committee to address the issue of the manufacturing clause in what we believe is the appropriate forum, that of a trade committee.

Very truly yours,

CAROL A. RISHER,
Director, Copyright.

Mr. **BAILEY**. We do print German books to sell in Germany?

Ms. **RISHER**. Yes; we do. In fact, also the foreign printers bring their work to the United States. We do a lot of work for foreign publishers, because we do have the quality control that I mentioned before. This is a very fine industry.

Mr. **BAILEY**. I know that. I have seen some of the Guttenberg presses that are used, the technology used to print——

Ms. **RISHER**. In the United States, you mean?

Mr. **BAILEY**. Yes. I have seen that technology that we have imported, and it was not developed here.

I have something else to ask you.

Those Guttenberg presses, they are very good machines.

On Singapore, the Ministry of Culture in Singapore has talked about a vulnerability of 45 percent of the American printing market, not the authors.

Do you dispute that?

Ms. **RISHER**. Yes; we do.

In preparation of comments for both the Copyright Office in their hearings and Congress in their hearings over the years on this manufacturing clause, we called together all of the production people from the major publishing houses, all our member publishers, and, as I said, we represent the book publishing industry, and we said in a closed meeting with nobody from the outside, OK, guys, let's talk turkey. What decisions will you make? If there is no manufacturing clause, how much of your works will go abroad? Tell us, because we need to know this in order to structure the case.

We were told by our own publisher production people who make those decisions, that they would maintain the manufacturing in this country.

Mr. **BAILEY**. Then it does not really make much difference, because you are not going to lose anything abroad.

Ms. **RISHER**. We are talking trade, and this provision has no place in the copyright law.

Mr. **BAILEY**. Because you are afraid of retaliation. Those are your reasons?

Ms. **Risher**. That is one of them. We have mentioned lots of them in our statement.

Mr. **Bailey**. I see.

Ms. **Risher**. It is possible, you know——

Mr. **Bailey**. You have no desire to go over there and print those books and bring them back. You are not in the marketing end, are you?

Ms. **Risher**. I am with the association that represents the book publishers, all their aspects, marketing as well.

Mr. **Bailey**. You deal with marketing?

Ms. **Risher**. Random House, who testified before the Congress, said in their testimony:

> We manufacture books here for export. We could manufacture them abroad because we have a publishing operation in London. We could manufacture them there, but instead, we bring the manufacturing to the United States, because we have such confidence in the U.S. book manufacturing and book printing industry; we manufacture here for export and then ship over there.

Mr. **Bailey**. I want to tell you, your dedication to this country's image is obviously unselfish and is a very high and notable purpose, and I commend you for it.

Ms. **Risher**. Thank you very much, sir.

Mr. **Bailey**. I have no further questions, Mr. Chairman.

Chairman **Gibbons**. All right.

We are going to hear now from the Council for a Competitive Economy.

STATEMENT OF BARBARA STEVENS, DIRECTOR OF PUBLIC AFFAIRS, COUNCIL FOR A COMPETITIVE ECONOMY

Ms. **Stevens**. I am Barbara Stevens, and I am director of public affairs for the Council for a Competitive Economy.

I have submitted a statement for the record, but would like to make some additional comments.

The council is a national membership organization, with members from all of the 50 States, representing a wide variety of business interests. Members are strongly united in a common dedication to the principles of a free, open, and competitive economy—one that is motivated by market rather than political forces. The council is not a probusiness organization, but instead is a group of business people who are promarket. This may be a subtle distinction, yet it is a critical one.

The establishment of copyright laws in the United States in 1891 signaled the beginning of the recognition for, and the protection of, an author's or publisher's right to their property. The first U.S. copyright laws offered reciprocating respect to literary works of other nations' authors.

It is no secret that the United States was the home of some of the most flagrant violators of the property rights of some foreign writers prior to the enactment of copyright protection, most notably Charles Dickens, whose stories of contemporary life were eagerly read by Americans. Enterprising printers in this country would find a copy of one of Dickens' work, reprint it, and have it out for sale on the streets in short order. Needless to say, Dickens and other British and European authors received little, if any, compensation for their works.

When the first laws were enacted, the manufacturing clause was an integral part, protecting the "fledgling" printing industry from the well developed urban manufacturing centers in England. But, as a whole, the printing industry has undergone substantial changes since those days, and the U.S. printing industry, itself, is among the most competitive and advanced all over the world.

Those who are calling for the retention of the clause, which requires domestic manufacture if authors and publishers wish to insure the right to their property, present plenty of justification for their belief that protection of jobs within their industry is more important than the right of the author or publisher to do with his property as he chooses.

While there may be forms of protection offered by other nations for their printing industries through the imposition of such things as quotas, tariffs, or other measures, it cannot logically follow that we should continue in their footsteps, especially when those measures violate the rights of others and their freedom to contract as they choose.

The reasonings and protests presented by those wishing to see the manufacturing clause extended are based on the notion that there are only a certain number of fixed wants and needs in this country, and, accordingly, there are only a certain fixed number of jobs that are available.

They feel that people are creatures who are incapable of change, of the ability to plan, or of growing and adjusting to the world around them. It would be as unwise to call for protection through such measures as it would have been futile for the manufacturers of buggy whips to lobby against the development of the automobile, or for the candlemakers to protest the development of the electric light bulb. Each invention initially displaced some workers, but offered new opportunities and chances for a better life for all people.

Representatives of the Printers and Book Manufacturers have charged that the publishers would take some "unfair" advantage and send their printing work overseas if the measure was dropped. This reasoning maintains that publishers would not have expended so much time, money and effort to have the clause dropped if it was not their intention to do so.

It is interesting to take this same line of reasoning when examining just why the manufacturing clause was ever initially included—primarily the desire of a certain sector to insure their jobs at someone else's cost, or why the printers, binders and typographers who are now so in favor of the extension have, themselves, spent such time, money and effort, if they do not have something substantial to gain at someone else's expense.

It would seem, from their argument, that it is permissible to violate someone's rights—especially the right of an author or publisher to freely contract with who ever they choose, if it offers financial gains to a specific group in the community. This concept is a dangerous one with relation to the property rights of authors and publishers, as well as the property and other rights of all individuals.

Thank you again, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF BARBARA STEVENS, DIRECTOR OF PUBLIC AFFAIRS, COUNCIL FOR A COMPETITIVE ECONOMY

Thank you, Mr. Chairman and members of this subcommittee, for the opportunity to present the views of the Council for a Competitive Economy concerning the proposed extension of the manufacturing clause contained within the Copyright Law protecting literary works.

The Council for a Competitive Economy is a national membership organization, representing businesses and individuals from all of the fifty states. Members of the Council represent a wide variety of business interests, yet are strongly united in their common dedication to the principles of a free, open and competitive economy, one that is motivated by market rather than political forces. The Council is not a pro-business organization, but instead is a group of business people who are pro-market. This may seem a subtle distinction, yet it is a critical one. Council members believe that the free market offers the only just and practical way of organizing economic affairs, and that it is only within the framework of a free economy that an individual is able to freely pursue his or her well-being unimpeded by either the use of force or fraud. In presenting the views of the Council for a Competitive Economy, I will not be making any technical arguments, nor presenting data that is peculiar to the printing or publishing industry. Rather, my remarks will be confined to a philosophical discussion in defense of the free, open and competitive economy.

The establishment of copyright laws in the United States signaled the beginning of recognition for and the protection of an author's or publisher's right to their property. It is no secret that prior to the enactment of the first copyright laws in 1891, the United States was the home of some of the most flagrant violators of the property rights of primarily British authors. History records that Charles Dickens would barely set down his pen before one of his stories of contemporary life in England would find its way to printing presses in American print shops. Shortly, the story would be sold on the streets to throngs of American readers, anxious for popular reading material. Needless to say, Dickens and other British and European authors received little, if any compensation for the publication of their works in the United States.

It is no wonder that the first U.S. Copyright Law offering the reciprocating respect to literary works of other nations' authors, was developed around the time American authors began to gain in ranks and in literary importance. They were quick to realize that they would be susceptible to the same fate as their colleagues overseas, and pressed to formulate a method of protecting the right to their literary accomplishments. It is not surprising that an integral part of the first copyright law contained the manufacturing clause aimed at protecting domestic printing industries, which found themselves hard-pressed to compete with the relatively advanced manufacturing centers in urban England.

The printing industry as a whole has undergone substantial changes since those days, and the U.S. printing industry itself is among the most competitive of industries, enjoying the development of amazing technological advances. But those who are calling for the retention and even the unlimited extension of the manufacturing clause, which requires that authors and publishers seeking recognition of their property rights under U.S. Copyright Laws have their works printed and bound in this country, present plenty of justification for their belief that the protection of "jobs" within their industry is more important than the rights of the authors and publishers to do with their property as they choose. It is a peculiar thing to require patronization to qualify for recognition of what is your property to begin with.

Those who press for retaining the clause within the copyright law maintain it offers the only form of protection available for their industry against competition from foreign firms. Other countries, they say, offer "protection" for their printing and binding industries, imposing tariffs, quotas, licensing and language restrictions as well as currency controls. Others maintain that rapid transportation methods and advanced technological developments make it possible to have books bound and printed anywhere in the world, and those areas offering low-priced labor will draw U.S. customers who are willing to sacrifice some degree of convenience, quality and speed for lower costs overseas.

Adam Smith earned his title of being the "father of modern economics," through his devastating refutation of mercantilism in "Wealth of Nations," published in 1776. Smith correctly observed that communities prospered most when the best shoemaker devoted his time and energies to making shoes, thereby increasing his skills through specialization, and then traded for other things he and his family needed. Wrote Smith, "It is the maxim of every prudent master of a family never to attempt to make at home what it will cost him more to make than buy." Additionally, he maintained:

"If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it of them with some part of the produce of our own industry, employed in a way in which we have some advantage. The general industry of the country . . . will not thereby be diminished . . . but only left to find out the way in which it can be employed to the greatest advantage."

While it may be true that other nations offer varying degrees of protection for their industries through the imposition of quotas, tariffs or other measures, it does not logically follow that we should follow in their footsteps, especially when those measures violate the rights of property owners and their freedom to contract with othes. Rapid transportation and the development of technological advancements in the printing and binding industries do in fact facilitate the manufacture of books in almost any corner of the world, but there will always remain certain advantages to having something manufactured within one's own country. The consideration of location, cost, service and many other variables, not the least of which is language and philosophical agreements, are taken into account when a publisher has an order to contract out. Labor costs may indeed be lower in some foreign country, but there are many reasons why the price of labor, as the price of any good or service, varies. It might seem cheap to hire the labor of a factory of one hundred workers in a foreign country, but if a domestic firm can do the same job mechanically, there is certain to be savings, whether it be time, precision or some other consideration.

These reasonings and protests presented by those wishing to see the manufacturing clause extended are based on the notion that there are only a certain fixed number of wants and needs in this country, as well as around the world, and accordingly, there are only a certain number of jobs that are available. They feel that people are creatures incapable of change, of the ability to plan, or of growing and adjusting to the world around them. It is as unwise to call for protection through such measures as it would have been unwise for the manufacturers of buggy whips to lobby against the development of the automobile, which was destined from the beginning to put them out of a job, or for candlemakers to lobby against allowing the invention of the electric lightbulb to proceed. In both instances, certain workers were displaced, there was the loss of some "jobs," and later benefitted from the same inventions that disrupted their lives.

Mr. Richard Weltz, representing the views of the Typographer's International Association made a subtle charge in his testimony concerning this issue over a year ago before a Copyright Office hearing. "We cannot believe," he stated, "that the publishing industry, which has expended so much time, money and effort pressing for the repeal of the manufacturing clause did so without the full intention to take advantage of the opportunity to make a major transfer of purchasing to cheaper labor areas of the world." It is interesting to take this same line of reasoning when examining exactly why the manufacturing clause was ever initially included, or why the printers, binders and typographers who are so in favor of the extension have themselves spent so much time, money and effort.

Probably the most telling and remarkable comments concerning the manufacturing clause can be found in a letter from former Senators John McClelland (D-Ark.) and Hugh Scott (R-Pa.) to the Register of Copyrights asking for an intensive study of the "ramifications of removal of the so-called manufacturing clause of the Copyright Bill . . .":

"On balance, it appears that, although there is no justification on principle for a manufacturing requirement in the copyright statute, there may still be some economic justification for it. . .

The real issue that lies between section 601 and complete repeal is an economic one, and on purely economic grounds the possible dangers to the American printing industry in removing all restrictions on foreign manufacture outweigh the possible benefits repeal would bring to American authors and publishers."

It would seem, judging from the remarks of Senators Scott and McClelland, violating someone's rights, be it the right of an author or publisher to take his work overseas for printing and binding if he so chooses, is secondary to the financial considerations of a specific group in the economic community. This concept is a dangerous one with relation to the property rights of authors and publishers, as well as the property and human rights of all individuals.

Thank you again, Mr. Chairman.

Chairman GIBBONS. Thank you very much.

This concludes our hearing on this subject matter.

The record will remain open until the close of business on the 2nd for additions to the record.

[Whereupon, at 2:10 p.m., the hearing was adjourned.]

[The following was submitted for the record:]

STATEMENT OF DOUGLAS B. RHODES, CORPORATE VICE PRESIDENT, ALPINE PRESS, INC., STOUGHTON, MASS., ON BEHALF OF BOOK MANUFACTURERS' INSTITUTE, INC.

Mr. Chairman, ladies and gentlemen, my name is Douglas B. Rhodes. I am Corporate Vice President of Alpine Press of Stoughton, Mass. We are complete, but exclusively, book manufacturers. Our equipment and facilities enable us to take a book from manuscript form through to final product. We can be categorized in terms of sales dollars and number of employees as a medium to small company in our industry, and my purpose in appearing before you today is to represent the hundreds of companies in this category, and to outline our plight in the face of the impending elimination of the Manufacturing Clause. We have a great deal at stake, and we feel that the circumstances are even more dire for us than some of our larger competitors.

Alpine itself reflects some of the bounties of the free enterprise system. Starting in 1913 as a small local printer, we have grown to $10 million in sales, employing 240 people and have remained privately held and run by the same family, now in the third generation.

The book manufacturing industry, with which I have been associated for over twenty years, is, I believe, a vital one to the American informational process, supporting some of our basic freedoms. It is an industry, not unlike many others, subject to great fluctuation depending on demand. I have seen it flourish and flounder for any number of reasons and under a vast variety of economic conditions.

It is a competitive industry. Our only customers, real or potential, are publishers. We are required constantly to recommit to the industry through the purchase of new, more productive machinery just to remain competitive. We do this through debt financing, because the average 11.8 percent return on net worth in our industry affords us no other means of financing expensive equipment. This method of financing is both expensive and risky. In the last year, Alpine has financed over $2 million of new equipment and increased the number of employees by almost 50 percent. These steps had to be taken to increase productivity in an attempt to hold down the cost of books and meet our competition.

Our equipment can do nothing but produce books. We can't switch over to make cartons or wheel rims or put toothpaste into tubes.

Our employees are some of the highest paid in American industry. If disaster struck, sure they could be retrained, but what would a person making almost $15 per hour be retrained for and be able to make that kind of money in order to maintain an established lifestyle?

All of this is not offered in the form of a complaint, or as a scare tactic, but merely to acquaint you with the facts that show the depth of the commitment of our company, and small companies like us and all their employees, to this industry. We know what we have to do for our publisher customers to keep their business and the risks that are involved. By the publishers very testimony before this subcommittee, the book manufacturers are meeting their needs and doing it well.

But now, all of these efforts and commitments are about to be undermined with the elimination of the Manufacturing Clause of the Copyright Act. Our very existence is threatened. We've proven we can compete effectively with improved technology, productivity and management skills. But faced with well documented competition from the Pacific Basin, we can't compete with lower wages reflecting lower standards of living in other countries, when labor is the largest single cost in book manufacturing.

Alpine isn't a company big enough or wealthy enough to hire experts to study the effect on our sales in percentage points if the Manufacturing Clause is eliminated. But I have read the predictions of others that range from 30 percent to 45 percent, and I can clearly state that if either prediction is even 50 percent correct, Alpine Press and hundreds of companies in our industry and allied industries will cease to exist. We could not even contemplate a 15 percent to 20 percent loss of business and expect to meet our payroll and financial obligations—and, I hasten to add, we are comparatively strong financially.

Even a 15 percent to 20 percent loss of business could not be countered by a similar percentage cutback in jobs or financial obligations. It would mean the loss of the business and 240 jobs just in our firm alone.

Could I attribute this all to the loss of the Manufacturing Clause directly? Probably not. But if 15 percent to 20 percent of the business was taken out of the U.S., the increased competition for the remaining 80 percent to 85 percent would sink the small and medium size book manufacturers and concentrate the business in a small number of larger firms. So the very free enterprise system within the U.S., fostered in part by the Manufacturing Clause since 1891, would be dangerously weakened and, for many of us, destroyed by its elimination. The publishers would recognize that fact all too late.

We are not asking for your sympathy, special subsidies, book bounties, tariff restrictions or any kind of handout. We are only asking you to leave the Manufacturing Clause in effect as it has been for the last ninety years, creating a business climate that has allowed companies like mine and the entire United States book manufacturing industry to grow under competitive conditions to the most productive in the world. An industry that is able to fill the needs of the publishers, produce books that can be sold at very reasonable prices to consumers, and still pay some of the highest hourly rates to our employees should not be abandoned.

I understand that there are arguments on both sides of this issue, and I don't have to reiterate to you the position of the authors and publishers. I don't happen to agree with them that there will be no loss of business to U.S. manufacturers if Section 601 is repealed, and as I have pointed out, if even 50 percent of the lowest estimated loss of business occurs, it would be disastrous for hundreds of companies. Whatever philosophic issues, gestures to our international friends, or attempts to separate protection for the intellectual work from its physical form are argued, we believe that the real importance lies with 170,000 employed Americans and a healthy book manufacturing segment of America's communications network. Senator McLellan succinctly identified the focal point of the matter in his 1975 report to the 94th Congress, saying:

"The real issue that lies between Section 601 and complete repeal is an economic one, and on purely economic grounds, the possible dangers to the American printing industry in removing all restrictions on foreign manufacture outweigh the possible benefits repeal would bring to American authors and publishers."

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY, INC.

(The U.S. Council for an Open World Economy is a private, nonprofit organization engaged in research and public education on the merits and problems of achieving an open international economic system in the overall public interest. The Council speaks for no private interest or government interest concerned in any way with the subject of these hearings or any other aspect of domestic or international commerce)

Repeal of the manufacturing clause of the copyright law is long overdue. Enacted in 1891, liberalized several times over the past 91 years, and scheduled for repeal on July 1, 1982 pursuant to 1976 legislation (pending studies on the economic impact of repeal), the manufacturing clause is a trade barrier making made-in-U.S.A. (or, more recently, made-in-Canada) a condition for U.S. copyright protection of many categories of books in the English language.

Whether or not justifiable as economic policy, such a condition does not belong in the copyright law. To the extent that trade-restrictive protection against foreign competition has economic justification, it should be only a marginal, transitional component of a coherent, comprehensive, constructive industry-adjustment strategy for an industry whose problems and needs have been carefully diagnosed and found to warrant government help. Import-restrictive assistance of any kind should be the subject of government investigation pursuant to the import-relief provisions of the trade legislation. Neither approach has ever been followed with respect to the book-manufacturing industry. In view of the impressive and growing strength of this industry in international competition, there is no apparent need for a government subsidy, which is what the manufacturing clause in fact represents. It is not clear that the industry's current state of development owes much if anything to the existence of the manufacturing clause for so many years. The industry's future health certainly depends on much more than such an anachronism, whose overall costs surely outweigh any benefits.

Retaining the manufacturing clause is not only a barrier to commerce. Constituting a simplistic, import-control response to fears of foreign competition, it tends to divert attention from direct, constructive attention to the real needs of the industry for whose benefit this aged, jaded protectionism has been kept on the statute books;

it is thus a barrier to more enlightened concern with the industry's evolving needs. It is also a barrier to authors unable to find publishers in the United States or Canada and not wanting to lose their U.S. copyrights by getting these works (if covered by the manufacturing clause) published elsewhere. It is also a barrier to American publishers eager for greater flexibility with which to increase efficiency and make the most of market opportunities. Barriers that impede authors and publishers ultimately disadvantage consumers of the written word and in some measure retard cultural and educational advancement.

There are estimates by the U.S. Department of Labor that tens of thousands of American jobs would be lost if the manufacturing clause were terminated. These estimates are accompanied by qualifications and caveats calling into question their accuracy and utility. Their shortcomings are even more far-reaching. Concentrating on the anticipated impact of removing an import barrier, to the obvious exclusion of other possible, more worthy forms of government assistance, such research is limited to the narrowest perception of the industry's needs, capabilities and potential, and of the assistance which government is able to provide.

Similarly, objection to repeal of the manufacturing clause on grounds of substantially lower wages outside the United States and Canada reveals the narrowest perception of this issue. It overlooks the vital factor of preeminent U.S. productivity in book manufacturing, and many other factors bearing on international competition in this field, such as U.S. cost advantages in paper supply and in proximity to the quickly changing U.S. market. The Copyright Office points out that American publishers, in choosing manufacturers for works exempt from the manufacturing clause, frequently select domestic printers and binders.

To postpone repeal of an import barrier until there is certainty that the affected industry would have no difficulty adjusting overlooks the range of government measures that would more suitably address such difficulties as the industry may have, in the context of serving the total national interest. Moreover, as I said 14 years ago in testimony against the manufacturing clause when I was Secretary and Chief Economist of the old Committee for a National Trade Policy: "If government delayed reducing trade barriers until the affected domestic producers felt they were able to cope successfully with the ensuing competition, little progress would be made in expanding international trade and building soundly based economic strength at home."

One of the points I suggested 14 years ago in proposing repeal of the manufacturing clause may also be worth citing at this time. I suggested that repeal be followed by Administration discussions with the book-manufacturing industry and related unions on adjustment problems that might be encountered and the most effective ways to solve them, consistent with the overall national interest. The Administration might be required to report to Congress annually, for perhaps two years following repeal, on the progress made in these adjustment efforts, proposing such legislative measures as may be necessary to facilitate such efforts.

The United States has the unenviable distinction of being the only major book-publishing and book-manufacturing country that controls its commerce in books by limiting the freedom of choice of certain categories of copyright owners. Other countries themselves do highly objectionable things affecting international trade in these and other products, and are capable of doing worse. They should be encouraged to do better, not given excuses to retain old barriers or add new ones. U.S. retention of the manufacturing clause would send the wrong signal from the world's most advanced economy and, we would like to feel, the most enlightened. Direct retaliation would not result, but emulation harmful to U.S. interests in book publishing and other fields is a real possibility, as is increased resistance to U.S. initiatives aimed at freer international trade and investment.

We should be exerting every effort to set the best example in how to deal with problems which industries may encounter in international competition. Our international negotiating position would be improved. The nation's total interest, including the enlightened self-interest of the book-manufacturing industry, would be well-served. Repeal of the manufacturing clause of the copyright law fits that standard.

O